

**TOM COLE**

4TH DISTRICT, OKLAHOMA

DEPUTY WHIP

**COMMITTEE ON APPROPRIATIONS**

LABOR, HEALTH AND HUMAN SERVICES,  
EDUCATION AND RELATED AGENCIES – CHAIRMAN

DEFENSE

INTERIOR, ENVIRONMENT,  
AND RELATED AGENCIES

**COMMITTEE ON RULES**

**COMMITTEE ON THE BUDGET**



**Congress of the United States**  
**House of Representatives**

June 25, 2018

**PLEASE REPLY TO:**

- ☐ 2467 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515  
(202) 225-6165
- ☐ 2424 SPRINGER DRIVE  
SUITE 201  
NORMAN, OK 73069  
(405) 329-6500
- ☐ 711 SW D AVENUE  
SUITE 201  
LAWTON, OK 73501  
(580) 357-2131
- ☐ SUGG CLINIC OFFICE BUILDING  
100 EAST 13TH STREET, SUITE 213  
ADA, OK 74820  
(580) 436-5375

Administrator Scott Pruitt  
Environmental Protection Agency  
William Jefferson Clinton Federal Building  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Pruitt:

Thank you for appearing in front of the House Appropriations Subcommittee on Interior, Environment, and Related Agencies to discuss your budget and priorities for the coming Fiscal Year of 2019. Like you, I agree there is much work to be done to reform EPA.

As I noted during our discussion, the Division Director position for the Robert S. Kerr Environmental Research Center (Kerr Lab), located in Ada, Oklahoma, is vacant. Instead, Acting Division Director Dr. Ann Keeley, a fully competent and able EPA employee, currently occupies the position.

I am writing to request that you prioritize and fast-track the appointment of a Division Director for Kerr Lab. This center is the EPA's premier center for groundwater remediation research in the United States. It has consistently enabled and enhanced our knowledge and understanding of the risk associated with the groundwater supplies and aquifer depletion.

Additionally, during this time of severe drought, Kerr Lab's focus on drought resiliency and water availability has formed a critical component of its research. Nowhere else in EPA, or any other federal agency, is such cutting edge research in these areas occurring.

I am concerned that the lack of a permanent Division Director will result in a reduction of the center's ability to execute its operations in accordance with its established purpose. Therefore, the appointment of a Division Director is critical.

Please reach out to myself or my staff for any questions or comments. I look forward to your reply.

Sincerely,

Tom Cole  
Member of Congress



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 01 2018

Office of  
Research and Development

The Honorable Tom Cole  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congressman Cole:

Thank you for your June 25, 2018, letter to the U.S. Environmental Protection Agency regarding the Division Director position at the Office of Research and Development's (ORD) Groundwater, Watershed, and Ecosystem Restoration Division (GWERD), located at the Robert S. Kerr Environmental Research Center in Ada, Oklahoma. The Division Director at GWERD is a critical position in our organization, and we plan to recruit for this position as soon as possible.

Again, thank you for your letter and for your continued support of GWERD and ORD. If you have further questions, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [moody.christina@epa.gov](mailto:moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in black ink, which appears to read "Jennifer Orme-Zavaleta", is written over the typed name.

Jennifer Orme-Zavaleta, Ph.D.  
Principal Deputy Assistant Administrator  
for Science

ELIZABETH H ESTY  
5TH DISTRICT, CONNECTICUT

COMMITTEE ON  
TRANSPORTATION AND INFRASTRUCTURE

COMMITTEE ON  
SCIENCE, SPACE, AND TECHNOLOGY



**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515-0705

DISTRICT OFFICE  
ONE GROVE STREET, SUITE 600  
NEW BRITAIN, CT 06053  
(860) 223-8412

WASHINGTON OFFICE  
221 CANNON HOUSE OFFICE BUILDING  
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[instagram.com/RepEsty](https://instagram.com/RepEsty)

June 27, 2018

Mr. Timothy Watkins  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Mr. Watkins,

I write on behalf of (b) (6) of Waterbury, Connecticut.

(b) (6) was a first responder during the attacks on September 11, 2001.  
(b) (6) injuries have been certified through the Center for Disease Control and the World Trade Center Health Program. (b) (6) applied for benefits through the 9/11 Victims Compensation Fund under the Zadroga Act, but was denied as he cannot provide proof of presence on site that day. (b) (6) was a volunteer on his personal time; therefore, he has no records to verify his presence.

(b) (6) states that he was informed by former Chief of Staff Benjamin Chevat for Carolyn Maloney (NY-12) that dust samples from the gear he used at ground zero could be matched with the site samples on record with the 9/11 Victims Compensation Fund.

I am writing to ask if there are any pro bono services that would provide dust testing of his gear so that he can prove his presence at ground zero and continue his application for benefits. If you have any questions or need more information, please contact Ian Lilly in my office at 860-223-8412 or [ian.lilly@mail.house.gov](mailto:ian.lilly@mail.house.gov). Thank you for your attention to this matter.

Sincerely,

Elizabeth H. Esty  
Member of Congress

EE/il





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 27 2018

OFFICE OF  
RESEARCH AND DEVELOPMENT

The Honorable Elizabeth Esty  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Congresswoman Esty:

Thank you for your June 27, 2018, letter to the U.S. Environmental Protection Agency regarding your constituent (b) (6), who is seeking advice on pro bono dust testing services to prove his presence at ground zero.

Unfortunately, the EPA is not aware of any pro bono services to test (b) (6) gear for dust to prove his presence at ground zero. However, we do have a report that documents the agency's efforts to develop a screening method for dust from the World Trade Center (WTC). The report concluded that slag wool appeared to be an indicator for WTC dust. The analytical method that was used by the EPA to screen dust samples involved the use of Scanning Electron Microscopy (SEM). The report is available at - <https://nepis.epa.gov/Exe/ZyPURL.cgi?Dockey=P100CMMQ.txt>.

You may also consider contacting the Connecticut Department of Health, who might direct you to resources. The New York State Department of Health also has information on WTC health studies and information on health services, and some of that information is at [https://www.health.ny.gov/environmental/investigations/wtc/health\\_studies/](https://www.health.ny.gov/environmental/investigations/wtc/health_studies/).

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Christina Moody in EPA's Office of Congressional and Intergovernmental Relations at [moody.christina@epa.gov](mailto:moody.christina@epa.gov) or (202) 564-0260.

Sincerely,

A handwritten signature in blue ink, reading "Jennifer Orme-Zavaleta".

Jennifer Orme-Zavaleta, Ph.D.  
Principal Deputy Assistant Administrator  
for Science



# United States Senate

WASHINGTON, DC 20510

July 24, 2018

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency (EPA)  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Acting Administrator Wheeler:

As you may recall, each of us was centrally involved in the negotiations that led to the 2016 reform of the Toxic Substances Control Act (TSCA), which passed with overwhelming bipartisan support. Among the key reforms was a substantial strengthening of TSCA's provisions governing EPA's review of new chemical substances prior to allowing them into commerce.

While in the months after passage EPA began to implement these provisions in a manner we believe was faithful to both the letter and spirit of the law, beginning in the middle of last year EPA signaled it would change course by narrowing the scope of its new chemical reviews and the requisite risk determinations in a manner that deviated from the statute.

Press reports now indicate that EPA is on the verge of making even more sweeping, weakening changes to its reviews of new chemicals.<sup>1</sup> Unlike with the draft framework EPA proposed late last year, which was made available and vetted through a public meeting and public comment, in this case we understand EPA plans to move forward without public notice and without describing in writing the changes it is making and how they are justified under reformed TSCA.

We write now to raise our serious concern about EPA's intentions, and to request that your staff brief our offices about the planned changes prior to moving to implement them. Passage of the TSCA reforms was intended to bolster public confidence in our chemical safety system by enhancing EPA's authorities, better ensuring the safety of chemicals both entering and in commerce while improving the transparency of EPA decision-making. Such enhancements were also critical to providing greater regulatory certainty to industry and greater EPA accountability to all stakeholders.

We appreciate that there has been frustration on all sides over EPA's implementation of the new provisions of section 5 of TSCA, and that EPA needs to balance the competing objectives of conducting both timely and robust reviews of new chemicals.

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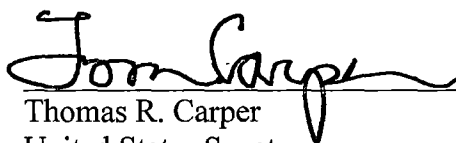
<sup>1</sup> Bloomberg Environment, "[New Chemicals Could Enter Market Sooner Under Plan Eyed by EPA](#)," July 17, 2018

We look forward to your prompt attention and response to this request. Thank you.

Sincerely,



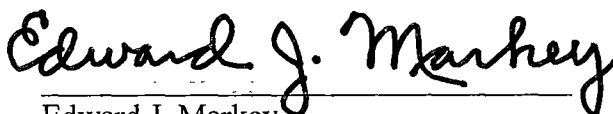
Tom Udall  
United States Senator



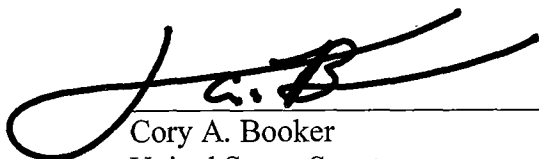
Thomas R. Carper  
United States Senator



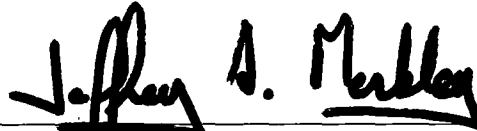
Sheldon Whitehouse  
United States Senator



Edward J. Markey  
United States Senator



Cory A. Booker  
United States Senator



Jeffrey A. Merkley  
United States Senator

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**  
COMMITTEE ON ENERGY AND COMMERCE  
2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115  
Majority (202) 225-2927  
Minority (202) 225-3641

July 13, 2018

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Acting Administrator Wheeler:

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is continuing its oversight of the Environmental Protection Agency's (EPA) management of grants. Specifically, the Committee seeks information about the process EPA uses to review grant solicitations and applications.

On April 21, 2017, the Committee wrote to EPA seeking documents and other information about the agency's process for closing out grants.<sup>1</sup> During a subsequent hearing before the Subcommittee on Oversight and Investigations in September 2017, GAO testified, "EPA's grant-monitoring practice may impact the agency's ability to efficiently monitor results and increase administrative costs."<sup>2</sup> GAO further stated, "EPA did not have information it needed to allocate grant management resources effectively."<sup>3</sup> This is particularly concerning since EPA awards about half of its budget, approximately \$4 billion annually, through grants.<sup>4</sup>

Beginning in 2017, EPA reportedly established a new review process for all grants and grant solicitations.<sup>5</sup> The new process included an increased level of scrutiny by the Office of

<sup>1</sup> See Letter from Hon. Greg Walden, Chairman, H. Comm. on Energy & Comm., to Hon. Scott Pruitt, Administrator, U.S. Env't'l Protection Agency, (Apr. 21, 2017).

<sup>2</sup> See *EPA Oversight: Unimplemented Inspector General & GAO Recommendations*, Hearing Before the H. Comm. on Energy & Comm., Subcomm. on Oversight & Investigations, 115th Cong., Sept. 6, 2017.

<sup>3</sup> *Id.*

<sup>4</sup> See U.S. Gov't Accountability Office, *EPA Partially Follows Leading Practices of Strategic Workforce Planning & Could Take Additional Steps*, GAO-17-144, Jan. 2017, available at <https://www.gao.gov/products/GAO-17-144>.

<sup>5</sup> See Juliet Eilperin, *EPA Now Requires Political Aide's Sign-Off for Agency Awards, Grant Applications*, WASH. POST, Sept. 4, 2017, available at <https://www.washingtonpost.com/politics/epa-now-requires-political-aides-sign-off-for-agency-awards-grant-applications/2017/09/04/>.

Public Affairs intended to “ensure funding is in line with the Agency’s mission and policy priorities,”<sup>6</sup> and reportedly “required the development of a new computer-reporting system.”<sup>7</sup> However, according to a recent media report, the grant review process has changed again.<sup>8</sup> Now it appears that grant solicitation decisions are made through EPA’s regional offices and assistant administrators.<sup>9</sup> It remains unclear why the review process continues to change, what guidelines are currently being used, and whether the latest changes incorporate recommendations that GAO made during the September 2017 hearing. Moreover, it is uncertain whether EPA’s latest review process is in line with the agency’s most recent Grants Management Plan.

EPA’s Grants Management Plan outlines goals and objectives for improving oversight of grants, including the review process.<sup>10</sup> According to the document, “[t]he goals and objectives identified in the Plan are intended to guide the day-to-day activities of the EPA’s grants management staff and the senior managers responsible for overseeing grant activities.”<sup>11</sup> Specifically, one goal calls for EPA to “Strengthen accountability in Regional and Headquarters Offices by improving the Management Effectiveness Review Process.”<sup>12</sup> This includes developing “a standardized review protocol” and measuring this goal by performing effectiveness reviews of grants management offices two times per year beginning in 2017.<sup>13</sup> Implementing the goals outlined in the Grants Management Plan would most certainly improve oversight of the grants program and increase the effectiveness of the review process.

To assist the Committee in its review, please provide the follow documents and information by July 27, 2018:

1. All written guidance relating to reviewing grant solicitations and applications, including any information regarding EPA’s review process from January 2017 to present, and plans for developing a “standardized review protocol” as cited in EPA’s *Grant Management Plan 2016-2020*.
2. All documents relating to EPA’s new computer-reporting system for grants, including the cost and a description of the system.<sup>14</sup>
3. All “effectiveness reviews” of grant management offices conducted since January 2017.<sup>15</sup>

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off-for-agency-awards-grant-applications/2017/09/04/2fd707a0-88fd-11e7-a94f-3139abce39f5\_story.html?utm\_term=.af32e5b5f472.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Kevin Bogardus & Sean Reilly, *Inside the Grants Review: 'This is Not Going to be Funded'*, E&E NEWS, Jun. 18, 2018, available at <https://www.eenews.net/greenwire/2018/06/18/stories/1060084979>.

<sup>9</sup> *Id.*

<sup>10</sup> See EPA, *Grants Management Plan 2016-2020*, Feb. 2016, available at [https://www.epa.gov/sites/production/files/2016-02/documents/gmp\\_final.pdf](https://www.epa.gov/sites/production/files/2016-02/documents/gmp_final.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> See *Wash. Post*, *supra* note 5.

<sup>15</sup> See EPA Grants Management Report, *supra* note 10.

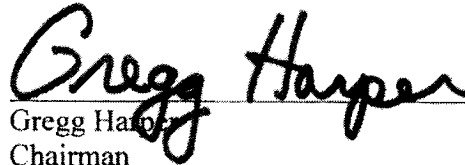
4. How many goals and objectives from the most recent Grants Management Plan have been implemented since January 2017?
5. What steps has EPA taken to address GAO's concerns about improving the agency's grant monitoring practices since the Committee's hearing in September 2017?

An attachment to this letter provides additional information about responding to the Committee's request. If you have any questions, please contact Lamar Echols of the Committee Staff at 202-225-2927. Thank you for your attention to this matter.

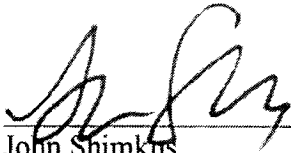
Sincerely,



Greg Walden  
Chairman



Gregg Harper  
Chairman  
Subcommittee on Oversight  
and Investigations



John Shimkus  
Chairman  
Subcommittee on Environment

cc: The Honorable Frank Pallone, Jr., Ranking Member  
Committee on Energy and Commerce

The Honorable Diana DeGette, Ranking Member  
Subcommittee on Oversight and Investigations

Attachment



## **RESPONDING TO COMMITTEE DOCUMENT REQUESTS**

*In responding to the document request, please apply the instructions and definitions set forth below:*

### **INSTRUCTIONS**

1. In complying with this request, you should produce all responsive documents that are in your possession, custody, or control or otherwise available to you, regardless of whether the documents are possessed directly by you.
2. Documents responsive to the request should not be destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee.
3. In the event that any entity, organization, or individual named in the request has been, or is currently, known by any other name, the request should be read also to include such other names under that alternative identification.
4. Each document should be produced in a form that may be copied by standard copying machines.
5. When you produce documents, you should identify the paragraph(s) and/or clause(s) in the Committee's request to which the document responds.
6. Documents produced pursuant to this request should be produced in the order in which they appear in your files and should not be rearranged. Any documents that are stapled, clipped, or otherwise fastened together should not be separated. Documents produced in response to this request should be produced together with copies of file labels, dividers, or identifying markers with which they were associated when this request was issued. Indicate the office or division and person from whose files each document was produced.
7. Each folder and box should be numbered, and a description of the contents of each folder and box, including the paragraph(s) and/or clause(s) of the request to which the documents are responsive, should be provided in an accompanying index.
8. Responsive documents must be produced regardless of whether any other person or entity possesses non-identical or identical copies of the same document.
9. The Committee requests electronic documents in addition to paper productions. If any of the requested information is available in machine-readable or electronic form (such as on a computer server, hard drive, CD, DVD, back up tape, or removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), you should immediately consult with Committee staff to determine the appropriate format in which to produce the information. Documents produced in electronic format should be organized, identified, and indexed electronically in a manner comparable to the organizational structure called for in (6) and (7) above.



10. If any document responsive to this request was, but no longer is, in your possession, custody, or control, or has been placed into the possession, custody, or control of any third party and cannot be provided in response to this request, you should identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control, or was placed in the possession, custody, or control of a third party.

11. If any document responsive to this request was, but no longer is, in your possession, custody or control, state:

- a. how the document was disposed of;
- b. the name, current address, and telephone number of the person who currently has possession, custody or control over the document;
- c. the date of disposition;
- d. the name, current address, and telephone number of each person who authorized said disposition or who had or has knowledge of said disposition.

12. If any document responsive to this request cannot be located, describe with particularity the efforts made to locate the document and the specific reason for its disappearance, destruction or unavailability.

13. If a date or other descriptive detail set forth in this request referring to a document, communication, meeting, or other event is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you should produce all documents which would be responsive as if the date or other descriptive detail were correct.

14. The request is continuing in nature and applies to any newly discovered document, regardless of the date of its creation. Any document not produced because it has not been located or discovered by the return date should be produced immediately upon location or discovery subsequent thereto.

15. All documents should be bates-stamped sequentially and produced sequentially. In a cover letter to accompany your response, you should include a total page count for the entire production, including both hard copy and electronic documents.

16. Two sets of the documents should be delivered to the Committee, one set to the majority staff in Room 316 of the Ford House Office Building and one set to the minority staff in Room 564 of the Ford House Office Building. You should consult with Committee majority staff regarding the method of delivery prior to sending any materials.

17. In the event that a responsive document is withheld on any basis, including a claim of privilege, you should provide the following information concerning any such document: (a) the reason the document is not being produced; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; (e) the relationship of the author and addressee to each

other; and (f) any other description necessary to identify the document and to explain the basis for not producing the document. If a claimed privilege applies to only a portion of any document, that portion only should be withheld and the remainder of the document should be produced. As used herein, "claim of privilege" includes, but is not limited to, any claim that a document either may or must be withheld from production pursuant to any statute, rule, or regulation.

- (a) Any objections or privileges are waived if you fail to provide an explanation of why full compliance is not possible and a privilege log prior to the request compliance date.
- (b) In complying with the request, be apprised (unless otherwise determined by the Committee) that the U.S. House of Representatives and the Committee do not recognize: any purported non-disclosure privileges associated with the common law including, but not limited to, the deliberative process privilege, the attorney-client privilege, and attorney work product protections; any purported privileges or protections from disclosure under the Freedom of Information Act; or any purported contractual privileges, such as non-disclosure agreements.
- (c) Any assertion by a recipient of any such non-constitutional legal bases for withholding documents or other materials shall be of no legal force and effect and shall not provide a justification for such withholding or refusal, unless and only to the extent that the Committee has consented to recognize the assertion as valid.

18. If the request cannot be complied with in full, it should be complied with to the extent possible, which should include an explanation of why full compliance is not possible.

19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; (2) documents responsive to the request have not been destroyed, modified, removed, transferred, or otherwise made inaccessible to the Committee since the date of receiving the Committee's request or in anticipation of receiving the Committee's request, and (3) all documents identified during the search that are responsive have been produced to the Committee, identified in a log provided to the Committee, as described in (17) above, or identified as provided in (10), (11) or (12) above.

## DEFINITIONS

1. The term "document" means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, interoffice and intra-office communications, electronic mail ("e-mail"), instant messages, calendars, contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, power point presentations, spreadsheets, and work sheets. The term "document" includes all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments to the foregoing, as well as any attachments or appendices thereto.

The term "document" also means any graphic or oral records or representations of any kind (including, without limitation, photographs, charts, graphs, voice mails, microfiche, microfilm, videotapes, recordings, and motion pictures), electronic and mechanical records or representations of any kind (including, without limitation, tapes, cassettes, disks, computer server files, computer hard drive files, CDs, DVDs, back up tape, memory sticks, recordings, and removable computer media such as thumb drives, flash drives, memory cards, and external hard drives), and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, electronic format, disk, videotape or otherwise. A document bearing any notation not part of the original text is considered to be a separate document. A draft or non-identical copy is a separate document within the meaning of this term.

2. The term "documents in your possession, custody or control" means (a) documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, or representatives acting on your behalf; (b) documents that you have a legal right to obtain, that you have a right to copy, or to which you have access; and (c) documents that have been placed in the possession, custody, or control of any third party.

3. The term "communication" means each manner or means of disclosure, transmission, or exchange of information, in the form of facts, ideas, opinions, inquiries, or otherwise, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether face-to-face, in a meeting, by telephone, mail, e-mail, instant message, discussion, release, personal delivery, or otherwise.

4. The terms "and" and "or" should be construed broadly and either conjunctively or disjunctively as necessary to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes the plural number, and vice versa. The masculine includes the feminine and neuter genders.

5. The terms "person" or "persons" mean natural persons, firms, partnerships, associations, limited liability corporations and companies, limited liability partnerships, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, other legal, business or government entities, or any other organization or group of persons, and all subsidiaries, affiliates, divisions, departments, branches, and other units thereof.

6. The terms "referring" or "relating," with respect to any given subject, mean anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or is in any manner whatsoever pertinent to that subject.

7. The term "employee" means agent, borrowed employee, casual employee, consultant, de facto employee, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, contract employee, contractor, or any other type of service provider.

8. The term "Administration" means and refers to any department, agency, division, office, subdivision, entity, official, administrator, employee, attorney, agent, advisor, consultant, staff, or any other person acting on behalf of or under the control or direction of the Executive Branch.

9. *For government recipients:* "You" or "your" means and refers to you as a natural person and the United States and any of its agencies, offices, subdivisions, entities, officials, administrators, employees, attorneys, agents, advisors, consultants, staff, contractors, or any other persons acting on your behalf or under your control or direction; and includes any person(s) defined in the document request letter.

10. *For private companies:* The term "[name of entity referenced in the request]" means [full entity name] including (i) its predecessors, successors, parents, wholly or partly owned direct or indirect subsidiaries, divisions, affiliates, and joint ventures and (ii) any current, past, or future partners, officers, directors, employees, representatives, or agents of any of the above entities.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 30 2018

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Gregg Harper  
Chairman  
Subcommittee on Oversight and Investigations  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of July 13, 2018, to the U.S. Environmental Protection Agency regarding the agency's processes for reviewing grant solicitations and applications and other grant matters. The Government Accountability Office raised several issues regarding the EPA's management of grants, including in its September 6, 2017 testimony before your Committee. The EPA continues to implement the GAO recommendations, improving its grants management processes.

The Committee's letter asks about the EPA's changes to the review procedures for grants and grant solicitations from a centralized process headed by a political appointee in the EPA's Office of Public Affairs to one involving reviews by senior EPA officials in regional and program offices. The centralized solicitation review process was temporary, pending appointment of the Administrator's senior management team. Now that this team is essentially on board, the review process has been adjusted to reflect their ongoing role in ensuring that grant decisions are consistent with the Administration's priorities.

The Committee inquired about a new computer system to support the Office of Public Affairs review process. The agency did not create a new system, rather, the Office of Public Affairs review process was integrated into the EPA's existing grants reporting infrastructure.

The Committee's letter also asked about the agency's implementation of the EPA's *Grants Management Plan, 2016-2020*. The agency has made considerable progress implementing the objectives under all five goals of the Plan, including efforts to gain efficiencies while maintaining effective oversight.

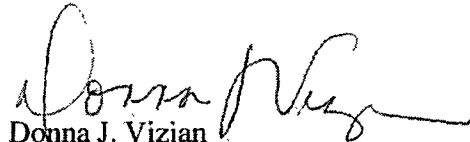
The Committee specifically inquired about implementation of management effectiveness reviews, as called for under the plan. The agency most recently conducted a management effectiveness review in January 2017. Efforts have since shifted to outreach visits by Office of Grants and Debarment senior leadership to regional offices, with follow-up training and

technical assistance for staff and management. Consistent with the plan, the EPA reviews accomplishments and evaluates its goals and objectives to determine if they had the intended results or if adjustments are needed. Shifting efforts from conducting management effectiveness reviews to other types of outreach and analysis is an example of such an adjustment. To date, the EPA has met or exceeded the targets for 15 out of the 18 measures used to identify progress under the Plan. Those that have not been met are being reassessed under the evaluation process described above.

To ensure transparency and accountability, the EPA publishes data in [USASpending.gov](https://www.usaspending.gov); actively seeks input from external partners such as states and Tribes on all assistance policies, and monitors grants to ensure proper management and performance. In addition, the EPA plans to issue a standardized review protocol as described in the Grants Management Plan by the end of FY 2020. The EPA's grants monitoring improvements have continued since the Committee's September 2017 hearing. Agency managers have access to cumulative annual baseline monitoring data through a system deployed in FY 17. This effort, combined with updates to other databases, will enhance the EPA's grant monitoring. In FY 20, the EPA plans to deploy a new grants management system through a shared service arrangement with the U.S. Department of Health and Human Services, which will enhance our monitoring capabilities.

Documents responsive to the Committee's request are enclosed. If you have further questions, please contact me, or your staff may contact Kristien Knapp in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3277 or [Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov).

Sincerely,



Donna J. Vizian  
Principal Deputy Assistant Administrator

Enclosures

cc: The Honorable Diana DeGette  
Ranking Member  
Subcommittee on Oversight and Investigations





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 30 2018

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable John Shimkus  
Chairman  
Subcommittee on Environment  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of July 13, 2018, to the U.S. Environmental Protection Agency regarding the agency's processes for reviewing grant solicitations and applications and other grant matters. The Government Accountability Office raised several issues regarding the EPA's management of grants, including in its September 6, 2017 testimony before your Committee. The EPA continues to implement the GAO recommendations, improving its grants management processes.

The Committee's letter asks about the EPA's changes to the review procedures for grants and grant solicitations from a centralized process headed by a political appointee in the EPA's Office of Public Affairs to one involving reviews by senior EPA officials in regional and program offices. The centralized solicitation review process was temporary, pending appointment of the Administrator's senior management team. Now that this team is essentially on board, the review process has been adjusted to reflect their ongoing role in ensuring that grant decisions are consistent with the Administration's priorities.

The Committee inquired about a new computer system to support the Office of Public Affairs review process. The agency did not create a new system, rather, the Office of Public Affairs review process was integrated into the EPA's existing grants reporting infrastructure.

The Committee's letter also asked about the agency's implementation of the EPA's *Grants Management Plan, 2016-2020*. The agency has made considerable progress implementing the objectives under all five goals of the Plan, including efforts to gain efficiencies while maintaining effective oversight.

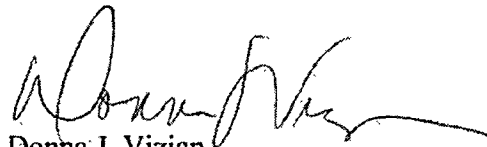
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Documents responsive to the Committee's request are enclosed. If you have further questions, please contact me, or your staff may contact Kristien Knapp in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3277 or [Knapp.Kristien@epa.gov](mailto:Knapp.Kristien@epa.gov).

Sincerely,



Donna J. Vizian  
Principal Deputy Assistant Administrator

Enclosures

cc: The Honorable Paul Tonko  
Ranking Member  
Subcommittee on Environment



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 30 2018

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Greg Walden  
Chairman  
Committee on Energy and Commerce  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of July 13, 2018, to the U.S. Environmental Protection Agency regarding the agency's processes for reviewing grant solicitations and applications and other grant matters. The Government Accountability Office raised several issues regarding the EPA's management of grants, including in its September 6, 2017 testimony before your Committee. The EPA continues to implement the GAO recommendations, improving its grants management processes.

The Committee's letter asks about the EPA's changes to the review procedures for grants and grant solicitations from a centralized process headed by a political appointee in the EPA's Office of Public Affairs to one involving reviews by senior EPA officials in regional and program offices. The centralized solicitation review process was temporary, pending appointment of the Administrator's senior management team. Now that this team is essentially on board, the review process has been adjusted to reflect their ongoing role in ensuring that grant decisions are consistent with the Administration's priorities.

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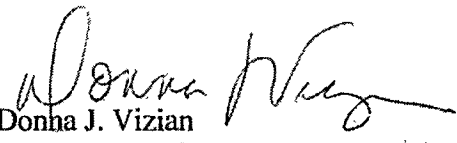
The Committee specifically inquired about implementation of management effectiveness reviews, as called for under the plan. The agency has not conducted any management effectiveness reviews since January 2017. Efforts have shifted to outreach visits by Office of Grants and Debarment senior leadership to regional offices, with follow-up training and

technical assistance for staff and management. Consistent with the plan, the EPA reviews accomplishments and evaluates its goals and objectives to determine if they had the intended results or if adjustments are needed. Shifting efforts from conducting management effectiveness reviews to other types of outreach and analysis is an example of such an adjustment. To date, the EPA has met or exceeded the targets for 15 out of the 18 measures used to identify progress under the Plan. Those that have not been met are being reassessed under the evaluation process described above.

To ensure transparency and accountability, the EPA publishes data in USASpending.gov; actively seeks input from external partners such as states and Tribes on all assistance policies, and monitors grants to ensure proper management and performance. In addition, the EPA plans to issue a standardized review protocol as described in the Grants Management Plan by the end of FY 2020. The EPA's grants monitoring improvements have continued since the Committee's September 2017 hearing. Agency managers have access to cumulative annual baseline monitoring data through a system deployed in FY 17. This effort, combined with updates to other databases, will enhance the EPA's grant monitoring. In FY 20, the EPA plans to deploy a new grants management system through a shared service arrangement with the U.S. Department of Health and Human Services, which will enhance our monitoring capabilities.

Documents responsive to the Committee's request are enclosed. If you have further questions, please contact me, or your staff may contact Kristien Knapp in EPA's Office of Congressional and Intergovernmental Relations at (202) 564-3277 or Knapp.Kristien@epa.gov.

Sincerely,

  
Donna J. Vizian  
Principal Deputy Assistant Administrator

Enclosures

cc: The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce

# RESCINDED

**Rescission Date:** April 14, 2018

**Background:** The purpose of PN-2017-G05 was to establish a protocol for OPA review of competitive grant solicitations. The protocol is replaced with a new process, referenced in PN -2018-GXX

**Action:** PN-2017-G05 and the protocol it implemented are rescinded and archived in the Office of Grants and Debarment's [Archived Grants Policies](#) intranet site that serves as a library of rescinded policies. A new process has been put in place under [PN-2018-G08](#).

Please note that the rescission of this PN does not supersede requirements reflected in Regulations, Orders, or other policy documents cited elsewhere.

**Resources:**  
[PN-2018-G08](#)

## PN-2017-G05

### Issuance of the Protocol for Office of Public Affairs Review of Draft Competitive Grant Solicitations

**Effective Date:** August 8, 2017

**Resources:**

[Protocol for Office of Public Affairs Review of Draft Competitive Grant Solicitations](#)

**Purpose:** This Policy Notice establishes the Protocol for Office of Public Affairs Review of Draft Competitive Grant Solicitation.

**Background:**

The Office of the Administrator has directed that all competitive grant solicitations be reviewed by the Office of Public Affairs (OPA) before they are posted on [Grants.gov](#) and before there is any external engagement (e.g., discussions with external stakeholders regarding priorities or other aspects of the competition) relating to the solicitation. This protocol establishes the process for OPA review.

**Actions:**

Program offices must begin following the referenced [Protocol](#) immediately. Any competitive grant solicitations that have not already been cleared by the Office of Public Affairs must go through the process set forth by the Protocol. No solicitations will be reviewed, published, or approved by the Grants Competition Advocate's office without obtaining approval from OPA first.

## Hublar, Jennifer

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**From:** Polk, Denise  
**Sent:** Friday, June 30, 2017 4:45 PM  
**To:** Neal, Kerry; Jones, Laurice; Schulz, Amanda; Durand, Jessica; Binder, Bruce; Scott, CherylL; O'Neal Jr., Rudnell R.; Montrallos, Stephanie L; Baamonde, Roch; White, Lisa; Lloyd, Keva; Massie, William; Green, Sharon; Miller, Donna; Sylvester, Kenneth; Brown, Dannel; Titus, Debbie; Hageman, James; Wills, Craig; VanHaagen, Paula; Young, Jill; Roth, Francis; Etheredge, William; Lavergne, Dany; Elliott, Kechi P.; Sylvester, Kenneth; January, Elizabeth  
**Cc:** ARA; Grants JROs; Leadership\_Deputy\_Assistant\_Administrators; Cooper, Marian; Bell, Matthew  
**Subject:** Final Guidance for Managing OGD's Grant Reports and Communications  
**Attachments:** OGD.Guidance for Managing OGDs Grant Reports.Final.6.30.17.pdf

Greetings,

Attached is the final "Guidance for Managing OGD's Grant Reports", which also includes a flowchart of the process. In addition to the attached guidance, provided below is additional instructions and Points-of Contact (POCs) to ensure an efficient process that enables OGD to adequately track actions that appear on the pending reports. Please review and share with your staff, as appropriate.

### **Email Communications with the Office of Grants and Debarment (OGD)**

All email correspondence concerning grant actions from the OGD reports should be sent directly to the [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov) email address. This email address will be monitored daily by Amanda Schulz (Primary Point-of-Contact (POC)) and Jessica Durand (Back-up POC). Please copy Amanda, Jessica and Laurice Jones, their contact information is provided below, on any communications submitted to the OGD email address mentioned above.

### **OGD Contact with POCs**

When OGD receives the pending reports from the Office of Public Affairs (OPA) requesting additional information, the reports will be emailed to the Grants Management Officers (GMOs), Junior Resource Officials (JROs), Las Vegas Finance Center (LVFC), Assistant Regional Administrators (ARAs) and the Senior Resource Officials (SROs) to ensure a timely review and engagement with OPA. Within two business days of receipt, OGD will send emails directly to the GMO, JRO, LVFC, ARA and/or SRO, as appropriate, identifying the actions that are specific to their AASHIP. This communication is intended to provide you a snapshot of the actions that require follow-up for your AASHIP. OGD encourages your grants/program office to make immediate contact with OPA so that any questions or concerns can be quickly addressed. Please share the POC information below with the designated person that will engage OPA to resolve the matter.

### **IGMS Funding Package (FP) Date Field**

1. **ALL** actions must have a valid date entered in the IGMS "Funding Pkg Date" (FPD) field within the "Draft Award Document". This will allow OGD to accurately and timely link the pending report data to the grant information in IGMS.
2. OGD requests that when an action is received by the program office that the FPD be entered immediately upon receipt or as soon as practicable.
3. It is not recommended that the FPD be modified once entered because it will negatively affect the pending reports for data tracking purposes (so please do not change the date after it has been entered).
4. The requirement to add the FPD should include non-monetary actions (such as time extensions, rebudgeting, etc.) in the event they are tracked again in the future.
5. For some grant actions, the FPD is automatically populated, while other actions require manual entry. So be sure to check that this field is complete.



6. If you are unsure of the FPD, OGD recommends the following:

- a. For New grant actions, the FPD should be the receipt date of either the notification of the finalized Funding Recommendation or Commitment Notice(s) whichever is later.
- b. For Supplemental actions, the FPD should be the receipt date of either the notification of the finalized Funding Recommendation, Change Request or Commitment Notice(s) whichever is later.
- c. For Incremental actions, the FPD should be the receipt date of either the notification of the finalized Change Request or Commitment Notice(s) whichever is later.
- d. For non-monetary (no cost) actions, the FPD should be the receipt date of the notification of the finalized Change Request.

#### **Manual Tracking of Supplemental Actions**

Every Wednesday by noon Eastern time the GMOs, or their designee, will identify any new supplemental actions that were not included in the prior report and update the NPTCD SharePoint site via <https://usepa.sharepoint.com/sites/OARM/OGD/NPTCD/Docs/Pending%20Supplemental%20Awards>, with the information requested in the template.

If there are no supplemental actions to report for that week, enter your “AASHIP” in the appropriate column on the report and add the following note in the “Project Description” section: “No Supplemental Actions to Report this period.”

#### **Points of Contacts (POCs) for the OGD Grant Reports Process**

As stated earlier, the OGD\_Grant\_Reports@epa.gov email address is managed by Amanda Schulz (Primary POC) and Jessica Durand (Back-Up POC). Amanda and Jessica’s contact information is provided below.

<b>OGD - Grant POCs</b>	<b>Email Address</b>	<b>Telephone Number</b>
Amanda Schulz, Policy Specialist	<a href="mailto:Schulz.Amanda@epa.gov">Schulz.Amanda@epa.gov</a>	202-564-7412
Jessica Durand, Policy Specialist	<a href="mailto:Durand.Jessica@epa.gov">Durand.Jessica@epa.gov</a>	202-564-5317
Laurice Jones, Director, National Policy, Training and Compliance Division (NPTCD)	<a href="mailto:Jones.Laurice@epa.gov">Jones.Laurice@epa.gov</a>	202-564-0223
Kenneth Sylvester (Ken), Special Assistant to the OGD Director	<a href="mailto:Sylvester.Kenneth@epa.gov">Sylvester.Kenneth@epa.gov</a>	202-564-1902
Denise Polk, Director, OGD	<a href="mailto:Polk.Denise@pa.gov">Polk.Denise@pa.gov</a>	202-564-5306
Kerry Neal, Deputy Director, OGD	<a href="mailto:Neal.Kerry@epa.gov">Neal.Kerry@epa.gov</a>	202-564-3766
<b>OGD - Competition POCs</b>		
Elizabeth January, Policy Specialist	<a href="mailto:January.Elizabeth@epa.gov">January.Elizabeth@epa.gov</a>	617-918-8655
Bruce Binder, Competition Advocate	<a href="mailto:Binder.bruce@epa.gov">Binder.bruce@epa.gov</a>	202-564-4935
<b>Office of Public Affairs POCs</b>		
John Konkus, Deputy Associate Administrator for Public Affairs	<a href="mailto:Konkus.John@epa.gov">Konkus.John@epa.gov</a>	202-564-2187
Nancy Grantham, Director of Public Affairs	<a href="mailto:Grantham.Nancy@epa.gov">Grantham.Nancy@epa.gov</a>	202-564-6879
Cathy Milbourn, Public Affairs Specialist	<a href="mailto:Milbourn.Cathy@epa.gov">Milbourn.Cathy@epa.gov</a>	202-564-7849

Please let me know if you have any questions or concerns. Wishing you all an enjoyable weekend and July 4<sup>th</sup> holiday.

Denise A. Polk, Director

Office of Grants and Debarment (OGD)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop: 3901R  
Washington, DC 20460

(202) 564-5306 (Phone)

(b) (6) (Cell)

Email: [Polk.Denise@epa.gov](mailto:Polk.Denise@epa.gov)

## Hublar, Jennifer

---

**From:** Polk, Denise  
**Sent:** Friday, June 30, 2017 5:18 PM  
**To:** Grantham, Nancy; Milbourn, Cathy  
**Cc:** Sylvester, Kenneth; Neal, Kerry; Jones, Laurice; Schulz, Amanda; Durand, Jessica; Binder, Bruce; January, Elizabeth  
**Subject:** Final Guidance for Managing OGD's Grant Reports  
**Attachments:** OGD.Guidance for Managing OGDs Grant Reports.Final.6.30.17.pdf

Greetings and Happy Friday, Nancy and Cathy,

Thanks for your quick review and concurrence that you sent yesterday on the guidance document. As promised, attached is the final pdf "Guidance for Managing OGD's Grant Reports". We did make some minor clarification edits, mainly from the perspective of the GMOs, but did not make any substantive changes, from the agreement we had with John and your office. Thanks again for your support! Have a wonderful weekend and a safe July 4th!

Denise A. Polk, Director  
Office of Grants and Debarment (OGD)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop: 3901R  
Washington, DC 20460

(202) 564-5306 (Phone)  
(b) (6) (Cell)  
Email: Polk.Denise@epa.gov

**PN-2018-G08**

**Assistant Administrator/Regional Administrator Approval of Competitive Grant Solicitations**

**Effective Date:** May 14, 2018

**Purpose:** This Policy Notice establishes the requirement that Assistant Administrators (AA) or Regional Administrators (RA) approve competitive grant solicitations prior to the Grants Competition Advocate's (GCA) Office and Office of General Counsel (OGC)/Office of Regional Counsel (ORC) review of the solicitation. In addition, the AA or RA must also approve any program office external engagement relating to the solicitation prior to its posting.

**Background:**

OGD is establishing this requirement to ensure competitive grant solicitations meet agency priorities.

**Actions:**

Headquarters and regional program offices must have approval from their AA or RA, or acting AA or RA for those offices that do not have a permanent AA or RA, before submitting competitive grant solicitations to the GCA's Office and OGC/ORC for review in the Next Generation Grants System (NGGS). Program office's must also obtain approval from their AA or RA, or acting AA or RA if there is no permanent AA or RA, prior to engaging in any external engagement relating to the solicitation.

For competitive solicitations entered in the NGGS for review by the GCA's Office and OGC/ORC on or after the effective date of this PN, program offices must include a statement or documentation indicating that their AA or RA, or acting AA or RA, have approved the solicitation for issuance and the date of approval. Program offices should include the information in the Workflow Task tab of the NGGS entry for the solicitation. Solicitations will not be reviewed or posted if this information is not included in NGGS. If the review of the solicitation by the GCA's Office and/or OGC/ORC results in substantive programmatic changes to the solicitation, then the program office should discuss those changes with their AA or RA, or acting AA or RA, before solicitation posting to ensure they have no issues with the changes. Once the solicitation has been posted on [www.grants.gov](http://www.grants.gov), the GCA's Office will notify John Konkus, Nancy Grantham, and Molly Block of the posting.

## Hublar, Jennifer

---

**From:** Polk, Denise  
**Sent:** Monday, May 14, 2018 2:18 PM  
**To:** Leadership\_Deputy\_Assistant\_Administrators; ARA  
**Cc:** Grants GMOs; Grants JROs; Neal, Kerry; Binder, Bruce; Sylvester, Kenneth; Jones, Laurice; Askew, Wendel; Swan-Townsend, Val  
**Subject:** Grant Reports and Solicitation Review Process

Greetings,

Effective immediately, the Office of Grants and Debarment (OGD) will no longer generate or transmit the following grant reports to the internal EPA grants community:

1. ***“Congressional Notification Report”*** (frequency - daily)
2. ***“Pending Grants Report – New, Supplemental and Incremental – filter 5 Program Codes”*** (frequency - weekly)
3. ***“Pending Grants Report – Nonprofits and Universities - New, Supplemental and Incremental – All Regions”*** (frequency - weekly)

OGD will continue to send the weekly ***“Pending Grants Report – New, Supplemental & Incremental – All Regions & HQ”*** to John Konkus, Nancy Grantham, Molly Block and Cathy Milbourn within the Headquarters Office of Public Affairs (OPA). This report, which includes all pending headquarters and regional monetary actions (New, Supplemental & Incremental), is used by OPA to identify opportunities for press releases. This report does not require an OPA response before grant issuance and OPA will work directly with the appropriate grants or program offices as necessary relating to any press releases.

In addition, OGD has discontinued the ***“Guidance/Protocol for Managing OGD’s Grant Reports”*** (last version effective November 13, 2017), and will remove the related link/page from OGD’s intranet site. OGD is currently revising Question No. 53 on the Grants Specialist “Comprehensive Administrative Review Guide” (for New Awards and Supplements) that addresses adherence to the grant report guidance and will alert the GMO community when the question has been updated.

Also effective immediately, headquarters and regional program offices no longer need to submit draft competitive grant solicitations to OPA as described in [PN-2017-G05](#) and the related ***“Protocol for Office of Public Affairs Review of Draft Competitive Grant Solicitations”*** which has been rescinded. [PN-2018-G08](#) has been established, as described below, which requires that headquarters and regional program offices have approval for solicitation issuance from their Assistance Administrator (AA) or Regional Administrator (RA), or acting AA or RA for those offices that do not have a permanent AA or RA, before submitting competitive grant solicitations to OGD’s Grants Competition Advocate’s (GCA’s) Office and the Office of General Counsel/Office of Regional Counsel (OGC/ORC) for review.

For competitive solicitations entered in the Next Generation Grants System (NGGS) for review by the GCA’s Office and OGC/ORC on or after the effective date of this PN, program offices must include a statement or documentation indicating that their AA or RA, or acting AA or RA, have approved the solicitation for issuance and the date of approval. Program offices should include this information in the Workflow Task tab of the NGGS entry for the solicitation. Solicitations will not be reviewed or issued if this information is not included in NGGS. If the review of the solicitation by the GCA’s Office and/or OGC/ORC results in substantive programmatic changes to the solicitation, then the program office should discuss those changes with their AA or RA, or acting AA or RA, before solicitation issuance to ensure they have no issues with the changes. Once the solicitation has been posted on [Grants.gov](#), the GCA’s Office will notify John Konkus, Nancy Grantham, and Molly Block of the posting.

If you have questions about the grants reports please contact me, at 202-564-5306 or my Special Assistant, Ken Sylvester, at 202-564-1902. Questions about the solicitation review process should be directed to Bruce S. Binder, Senior Associate Director for Grants Competition, at 202-564-4935. Thank you for your cooperation.

Denise A. Polk, Director  
Office of Grants and Debarment (OGD)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop: 3901R  
Washington, DC 20460

(202) 564-5306 (Phone)

(b) (6) (Cell)

Email: [Polk.Denise@epa.gov](mailto:Polk.Denise@epa.gov)



## Hublar, Jennifer

---

**From:** Polk, Denise  
**Sent:** Thursday, November 09, 2017 3:28 PM  
**To:** Leadership\_Deputy\_Assistant\_Administrators; ARA; Grants GMOs; Grants JROs; Pumphrey, William; Keesee, Peyton; OGD\_Grant\_Reports; Williams, Michael; Durand, Jessica; Cooper, Marian; Bell, Matthew; Gentry, James; Moore, Deon  
**Cc:** Sylvester, Kenneth; Neal, Kerry; Konkus, John; Grantham, Nancy; Milbourn, Cathy; Jones, Laurice  
**Subject:** Effective Monday, November 13, 2017 - Revised Guidance for Managing OGD's Grant Reports and Points of Contact for Communications  
**Attachments:** Revised Guidance for Managing OGD Grant Reporting 11-3-17.docx

Greetings,

Attached is revised Guidance for Managing OGD's Grant Reports, which will become effective on Monday, November 13, 2016. These changes reflect slight modifications to the current grant reporting process since the original June 30, 2017 guidance release. We have also updated the Point of Contact (POC) information, which is provided below for your convenience.

In keeping with our normal process, when OGD receives the pending reports from the OPA requesting additional information, the reports will be emailed to the Grants Management Officers (GMOs), Junior Resource Officials (JROs), Las Vegas Finance Center (LVFC), Assistant Regional Administrators (ARAs) and the Senior Resource Officials (SROs) to ensure a timely review and engagement with OPA. Within two business days of receipt, OGD will send emails directly to the GMO, JRO, LVFC, ARA and/or SRO, as appropriate, identifying the actions that are specific to their AASHIP. This communication is intended to provide you a snapshot of the actions that require follow-up for your AASHIP. OGD encourages your grants/program office to make immediate contact with OPA so that any questions or concerns can be quickly addressed. Please share the revised guidance and the POC information with the designated person that will engage OPA to resolve the matter.

Points of Contacts (POCs) for the OGD Grant Reports Process The OGD\_Grant\_Reports@epa.gov email address is managed by Michael Williams (Primary POC) and Jessica Durand (Back-Up POC). Michael and Jessica's contact information is provided below along with other individuals involved with this process.

### OGD - Grant POCs

Email Address	Telephone Number
Michael Williams, Training Staff	Williams.Michael@epa.gov 202-564-1068
Jessica Durand, Policy Specialist	Durand.Jessica@epa.gov 202-564-5317
Laurice Jones, Director, National Policy, Training and Compliance Division (NPTCD)	Jones.Laurice@epa.gov 202-564-0223
Kenneth Sylvester (Ken), Special Assistant to the OGD Director	Sylvester.Kenneth@epa.gov 202-564-1902
Denise A. Polk, Director, OGD	Polk.Denise@epa.gov 202-564-5306
Kerry Neal, Deputy Director, OGD	Neal.Kerry@epa.gov 202-564-3766

OGD - Competition POCs	
Elizabeth January, Policy Specialist	January.Elizabeth@epa.gov 617-918-8655
Bruce Binder, Competition Advocate	Binder.bruce@epa.gov 202-564-4935
Office of Public Affairs POCs	
John Konkus, Deputy Associate Administrator for Public Affairs	Konkus.John@epa.gov 202-564-2187
Nancy Grantham, Director of Public Affairs	Grantham.Nancy@epa.gov 202-564-6879
Cathy Milbourn, Public Affairs Specialist	Milbourn.Cathy@epa.gov 202-564-7849

Please let me know if you have any questions or concerns. Wishing you all an enjoyable holiday weekend!

Denise A. Polk, Director  
Office of Grants and Debarment (OGD)  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Mail Stop: 3901R  
Washington, DC 20460

(202) 564-5306 (Phone)  
(b) (6) (Cell)  
Email: Polk.Denise@epa.gov

### **Guidance for Managing OGD's Grant Reports**

1. Reports Issued (in order of award phase)
  - Upcoming Competition Report (Monthly): Identifies upcoming solicitations for competitive grant programs.
  - Pending New and Supplemental Amendment Grant Report (Weekly on Mondays): Identifies only new and supplemental grant funding amendment actions submitted by the program office to the grants office for processing, but not yet awarded. <sup>1</sup> This report will exclude the program codes identified below since OPA has approved these actions to move forward, but these actions for those program codes will still be reviewed for possible press release.
  - Pending New, Supplemental and Incremental Amendment Grant Report (Weekly on Mondays): Identifies new awards, supplemental, and incremental grant funding amendment actions submitted by the program office to the grants office for processing. <sup>2</sup> This report will **ONLY** be emailed to the appropriate person in the Office of Public Affairs (OPA) to identify opportunities for press releases.
  - White House (Weekly on Mondays): Identifies grant awards that grant offices anticipate signing no earlier than the following Monday.
  - Congressional Report (Daily and Weekly every Monday): Identifies signed grant awards currently in the congressional notification stage. These grant awards were signed the day before the report is issued.
2. The OPA will review the Pending New and Supplemental Amendment Grant Report and the monthly Upcoming Competition Report as described directly below. The Pending New, Supplemental and Incremental Amendment Grant Report will be reviewed by the appropriate person in OPA for press release purposes only.
3. Within 3 business days of receipt of the applicable report, OPA will use the color key codes below to identify their response to the items in the report and notify OGD via email at [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov). If OGD does not receive a response from OPA within the 3 business days, OGD will contact OPA to determine how to proceed with respect to the actions in the report.
  - a. Color Key Code:
    - Not highlighted = The grant or solicitation can move forward.
    - Green = The action can move forward, but is targeted for a press release.
    - Yellow = There are questions about this action that need to be resolved prior to moving forward.
    - Blue = A meeting should be scheduled with the grant/program office, as appropriate, with OPA to address questions prior to moving forward with the action.
  - b. Color Key Code will be standard across all reports.
  - c. The email address, [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), will be used for all reporting purposes.

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<sup>1</sup> All new and supplemental grant actions with Program Codes V and VC (Superfund), FS and CS (SRF), and BG (PPGs) have clearance to move forward, but may be identified by OPA for a press release. All other new and supplemental actions will be reviewed and must be cleared by OPA prior to moving forward.

<sup>2</sup> All Incremental amendment actions are not subject to review by OPA for clearance and can move forward, but still may be subject to press release as determined by OPA.

June 30, 2017

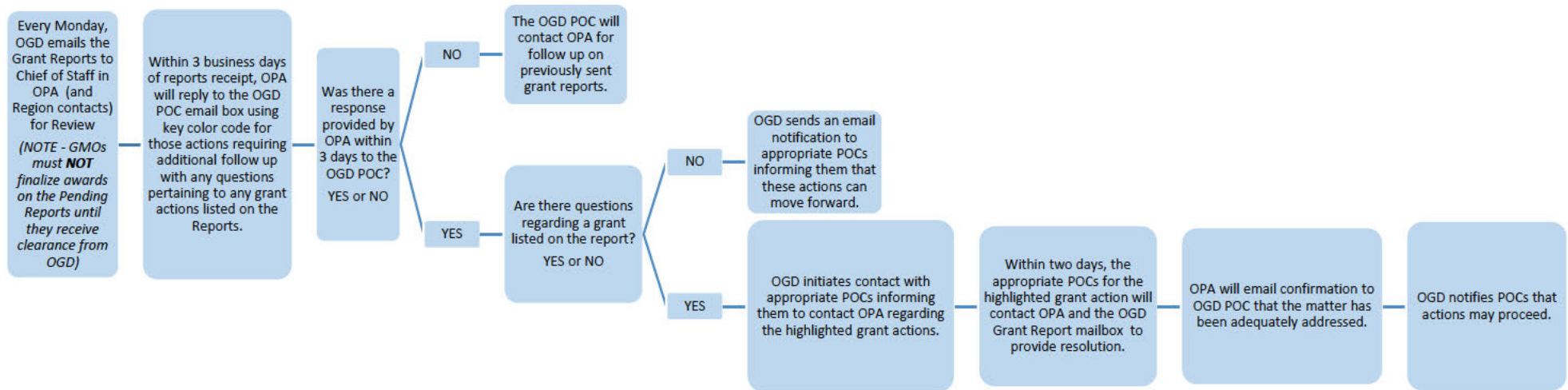
4. Upon receipt of the color coded report(s) from OPA, OGD will forward to all POCs (Regions, Programs, GMOs, ARAs, SROs, LVFC, PADs, etc.) all applicable reports identifying the actions required based on the Color Key Code. The Upcoming Competition Report will be forwarded to the program offices for action as appropriate. OGD, within 1-2 business days of receipt from OPA, will contact individual POCs (LVFC, Regions, Programs, and GMOs) to notify them of specific actions requiring additional follow-up, as appropriate.

- a. For grants actions identified for press release, the appropriate OPA staff will be copied on the email communication.
  - b. OGD will document communications in appropriate spreadsheet maintained in NPTCD's SharePoint site.
  - c. POCs will reach out to OPA directly to address any questions.
  - d. POCs have a deadline of 2 business days to provide status update and/or resolution to OGD.
4. POCs provide resolution status to OPA, [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), and the OGD POCs.
  5. OPA will notify OGD via email that the matter has been resolved and the actions can move forward.
  6. OGD documents resolution in appropriate spreadsheet and will notify appropriate POCs of final resolution via email address [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), which will then provide final instructions.

**Special Instructions for GMOs:**

1. To ensure IGMS grant actions accurately and timely correspond to the pending reports, **ALL** actions must have a valid date entered in the IGMS "Funding Pkg Date" (FPD) field within the "Draft Award Document". OGD requests that when an action is received by the program office that the FPD be entered immediately upon receipt or as soon as practicable.
2. Every Wednesday by noon Eastern time the GMOs, or their designee, will identify any new supplemental actions that were not included in the prior report and update the NPTCD SharePoint site via <https://usepa.sharepoint.com/sites/OARM/OGD/NPTCD/Docs/Pending%20Supplemental%20Awards>, with the information requested in the template. If there are no supplemental actions to report for that week, enter your "AASHIP" in the appropriate column on the report and write the following note in the "Project Description" section: "No Supplemental Actions to Report this period."
3. Non-monetary actions, including decrease amendment actions, do not require OPA review and have clearance to move forward; therefore, these actions will not appear on any report.
4. The program and/or grants offices should accurately and specifically describe the nature and intent of the project being performed (e.g. address drought relief, reduce carbon footprint, etc). The key point is to connect the project description language to EPA's core environmental programs. In other words, drought or extreme weather patterns could impact drinking water availability or water quality; air quality may be impacted by wildfires.

# OGD Grant Award Reporting Flow Chart Communication Process\*



\*This flow chart relates to only the Grant Award process. Solicitations are not covered in this process.

## Protocol for Office of Public Affairs Review of Draft Competitive Grant Solicitations

The Office of the Administrator has directed that all competitive grant solicitations be reviewed by the Office of Public Affairs (OPA) before they are posted on [Grants.gov](https://www.grants.gov) and before there is any external engagement (e.g., discussions with external stakeholders regarding priorities or other aspects of the competition) relating to the solicitation. This protocol establishes the process for OPA review.

1. **Program Office Initiates OPA Review Process:** When a program office has a final draft of a solicitation that would otherwise be ready for review through the Next Generation Grants System (NGGS) by the Office of Grants and Debarment's Grants Competition Advocate's Office (GCA's Office) they must first send it to John Konkus, Deputy Associate Administrator for Public Affairs in OPA, for review and approval before they transmit it through NGGS for GCA review.<sup>1</sup>
  - a. Program offices must submit a copy of the draft solicitation via email to John Konkus at [konkus.john@epa.gov](mailto:konkus.john@epa.gov). They must also copy Bruce Binder, Senior Associate Director for Grants Competition, on the email and all subsequent email communications with John Konkus regarding the solicitation, at [binder.bruce@epa.gov](mailto:binder.bruce@epa.gov).
  - b. The email to John Konkus must include the name, email address, and telephone number for the program office's point of contact (POC) to respond to any OPA questions or comments on the solicitation.
2. **OPA Reviews Solicitation:** John Konkus will review the solicitation within 3 business days of receiving it from the program office.
  - a. If he has any concerns, comments, or questions on the solicitation, he will contact the POC listed in the email. If he has any competition or legal concerns he may also contact the GCA's Office.
  - b. The program office will work directly with John Konkus to resolve any issues on the solicitation. The program office may seek assistance from the GCA's Office and/or OGC/ORC as necessary to resolve any issues.
  - c. If John Konkus has no concerns, or his concerns have been addressed, he will contact the POC to communicate OPA's approval of the solicitation.
  - d. After receiving OPA approval, program offices may engage in appropriate external outreach with the grant community regarding the solicitation consistent with the Assistance Agreement Competition Policy and GCA guidance. However, if this engagement results in any substantive changes to the draft solicitation approved by OPA, the program office must resubmit the solicitation to John Konkus for another review (see Step 1).
3. **Program Office Submits OPA-Approved Solicitation for GCA and OGC/ORC Review:** Once OPA has approved the solicitation, the program office must submit the opportunity to the GCA's Office for review via NGGS as is the current practice. The GCA's Office will forward it to OGC/ORC for review as appropriate.
  - a. The program office must include a statement in the comments field of the "Work Flow" section of the NGGS opportunity indicating that OPA has approved the solicitation (and the date of the approval) and/or may attach any written approval received from John Konkus in the "Work Flow" section of the opportunity in NGGS.
  - b. The program office must attach a copy of any comments or revisions made by John Konkus to the solicitation in the "Work Flow" section of the NGGS opportunity.
  - c. If during their review of the solicitation the GCA's Office and/or OGC/ORC raise any comments or concerns with the solicitation that impact or relate to any comments from OPA, they will work with OPA and the program office to resolve the issues.
4. **Solicitation is Posted:** Program offices may post their solicitation on their website only after receiving approval from OPA and the GCA's Office (and OGC/ORC when applicable). The GCA's Office will then post it on [Grants.gov](https://www.grants.gov) consistent with the established process.

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<sup>1</sup> Program offices may still work with the GCA's Office and OGC/ORC when developing the solicitation to address any competition or legal issues with the competition prior to sending it to OPA for review.



### **Guidance for Managing OGD's Grant Reports**

- 1) Reports Issued (in order of award phase)
  - a) Pending New, Supplemental and Incremental Amendment Grant Report (Weekly on Mondays): Identifies only new, supplemental and incremental grant funding amendment actions submitted by the program office to the grants office for processing, but not yet awarded. <sup>1</sup> This report will exclude the program codes identified below since OPA has approved these actions to move forward, but these actions for those program codes are still subject to press release.
  - b) For Press Release-Pending New, Supplemental and Incremental Amendment Grant Report (Weekly on Mondays): Identifies new awards and supplemental, and incremental grant funding amendment actions submitted by the program office to the grants office for processing. This report will **ONLY** be emailed to the appropriate person in the Office of Public Affairs (OPA) to identify opportunities for press releases.
  - c) Non-Profit and Universities Pending New, Supplemental and Incremental Grant Report (Weekly after Pending New and Supplemental Amendment Grant Report is reviewed by OPA): Identifies new awards and supplemental and incremental grant funding amendment actions submitted by the program office to the grants office for processing, but not yet awarded. This report will **ONLY** be emailed to the appropriate person in OPA.
  - d) Congressional Report (Daily and Weekly every Monday): Identifies signed grant awards currently in the congressional notification stage. These grant awards were signed the day before the report is issued.
- 2) The OPA will review the Congressional Report, Pending New, Supplemental and Incremental Amendment Grant Report, and the Non-Profit and Universities Report as described directly below. The Press Release-Pending New, Supplemental and Incremental Amendment Grant Report will be reviewed by the appropriate person in OPA for press release purposes only.
- 3) Within 3 business days of receipt of the applicable report, OPA will identify their response to the items in the report and notify Denise Polk, Kenneth Sylvester, and OGD at [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov). If OGD does not receive a response from OPA within the 3 business days, OGD will contact OPA to determine how to proceed with respect to the actions in the report.
  - a) The email address, [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), will be used for all reporting purposes.
- 4) Within 1-2 business days of notification from OPA, OGD will contact individual POCs (LVFC, Regions, Programs, and GMOs) to notify them of specific actions requiring additional follow-up, as appropriate.
  - a) POCs will reach out to OPA directly to address any questions.
  - b) POCs provide resolution status to OPA, [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), and the OGD POCs.
  - c) POCs have a deadline of 2 business days to provide status update and/or resolution to OGD.
  - d) OGD will document communications in appropriate spreadsheet maintained in NPTCD's SharePoint site.
  - e) OPA will notify OGD via email that the matter has been resolved and the actions can move forward.
  - f) OGD documents resolution in appropriate spreadsheet and will notify appropriate POCs of final resolution via email address [OGD\\_Grant\\_Reports@epa.gov](mailto:OGD_Grant_Reports@epa.gov), which will then provide final instructions.
- 5) Within 1-2 business days of reports being issued, OGD will notify all POCs that all actions except those placed specifically on hold can move forward.
- 6) For grants actions identified for press release, the appropriate OPA staff will be copied on the email communication.

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<sup>1</sup> All new, incremental and supplemental grant actions with Program Codes V and VC (Superfund), FS and CS (SRF), and BG (PPGs) have clearance to move forward, but may be identified by OPA for a press release. All other new, incremental and supplemental actions will be reviewed and must be cleared by OPA prior to moving forward.



**Special Instructions for GMOs:**

1. To ensure IGMS grant actions accurately and timely correspond to the pending reports, OGD requests that you adhere to the following guidance below:

**IGMS Funding Package (FP) Date Field**

- **ALL** actions must have a valid date entered in the IGMS “Funding Pkg Date” (FPD) field within the “Draft Award Document”. This will allow OGD to accurately and timely link the pending report data to the grant information in IGMS.
  - OGD requests that when an action is received by the program office that the FPD be entered immediately upon receipt or as soon as practicable.
  - It is not recommended that the FPD be modified once entered because it will negatively affect the pending reports for data tracking purposes (so please do not change the date after it has been entered).
  - The requirement to add the FPD should include non-monetary actions (such as time extensions, rebudgeting, etc.) in the event they are tracked again in the future.
  - For some grant actions, the FPD is automatically populated, while other actions require manual entry. So be sure to check that this field is complete.
  - If you are unsure of the FPD, OGD recommends the following:
    - a. For New grant actions, the FPD should be the receipt date of either the notification of the finalized Funding Recommendation or Commitment Notice(s) whichever is later.
    - b. For Supplemental actions, the FPD should be the receipt date of either the notification of the finalized Funding Recommendation, Change Request or Commitment Notice(s) whichever is later.
    - c. For Incremental actions, the FPD should be the receipt date of either the notification of the finalized Change Request or Commitment Notice(s) whichever is later.
    - d. For non-monetary (no cost) actions, the FPD should be the receipt date of the notification of the finalized Change Request.
2. Non-monetary actions, including decrease amendment actions, do not require OPA review and have clearance to move forward; therefore, these actions will not appear on any report.
  3. The program and/or grants offices should accurately and specifically describe the nature and intent of the project being performed (e.g. address drought relief, reduce carbon footprint, etc). The key point is to connect the project description language to EPA’s core environmental programs. In other words, drought or extreme weather patterns could impact drinking water availability or water quality; air quality may be impacted by wildfires.

TOM UDALL  
NEW MEXICO

101 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
202 224-6001  
(202) 228-3201 FAX  
<http://tomudall.senate.gov>

# United States Senate

WASHINGTON, DC 20510

COMMITTEES:  
APPROPRIATIONS

COMMERCE, SCIENCE, AND TRANSPORTATION

FOREIGN RELATIONS

INDIAN AFFAIRS

RULES AND ADMINISTRATION

July 9, 2018

Mr. Troy Lyons  
Associate Administrator for Congressional and Intergovernmental Relations  
Environmental Protection Agency  
1200 Pennsylvania Ave NW Rm 3426ARN  
Washington, DC 20460-0001

Dear Mr. Lyons,

(b) (6) has contacted Senator Tom Udall's office in resolving a matter with which you might be able to provide assistance. Enclosed are copies of the information we have been provided on the particular situation for your review.

Your prompt consideration would be greatly appreciated as (b) (6) is eager to resolve this matter as soon as possible. A copy of your response will be sent to the Senator's constituent. Please send your response to:

**Senator Tom Udall**  
**Attn: Carlos Sanchez**  
**400 Gold Ave SW, Suite 300**  
**Albuquerque, NM 87102**

Sincerely,



Carlos Sanchez  
Constituent Services Representative

Enclosure(s): 4

cc: (b) (6)

## STATE OFFICES:

ALBUQUERQUE:  
400 Gold Ave SW  
Suite 300  
ALBUQUERQUE, NM 87102  
505-346-8701

CARLSBAD:  
102 W HARRISMAN  
Suite A  
CARLSBAD, NM 88220  
575-224-0388

LOS CRUCES:  
201 N. Church Street  
Suite 201B  
LOS CRUCES, NM 88001  
575-526-5475

PORTALES:  
100 SOUTH AVENUE A  
Suite 113  
PORTALES, NM 88130  
575-356-6811

SANTA FE:  
120 SOUTH FEDERAL PLACE  
Suite 302  
SANTA FE, NM 87501  
505-968-6811

TOM UDALL  
NEW MEXICO

501 HART SENATE OFFICE BUILDING  
WASHINGTON, DC 20510  
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(202) 224-3261 FAX  
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United States Senate  
WASHINGTON, DC 20510

COMMITTEES:  
APPROPRIATIONS  
COMMERCE, SCIENCE, AND TRANSPORTATION  
FOREIGN RELATIONS  
INDIAN AFFAIRS  
RULES AND ADMINISTRATION

July 9, 2018

(b) (6)

Dear (b) (6),

Thank you for contacting Senator Tom Udall's office for assistance. I wanted to take this opportunity to provide you with an update on recent actions taken on your case.

Enclosed is a copy of a letter sent to the Environmental Protection Agency on your behalf. I will notify you as soon as the agency responds to my inquiry or if additional information is required.

Please be sure to notify me if you have any additional information or if there have been any changes in your case. Should you have any questions, comments or concerns, please feel free to contact me at 505-346-6791.

Sincerely,

Carlos Sanchez  
Constituent Services Representative

Enclosure(s): 1

STATE OFFICES:

ALBUQUERQUE:  
400 GOLD AVENUE, SW  
SUITE 300  
ALBUQUERQUE, NM 87102  
505-346-6791

CARLSBAD:  
102 W. HAGERMAN  
SUITE A  
CARLSBAD, NM 88230  
575-234-0366

LAS CRUCES:  
201 N. CHURCH STREET  
SUITE 201B  
LAS CRUCES, NM 38001  
575-526-5475

PORTALES:  
100 SOUTH AVENUE A  
SUITE 113  
PORTALES, NM 88130  
575-356-6811

SANTA FE:  
120 SOUTH FEDERAL PLACE  
SUITE 302  
SANTA FE, NM 87501  
505-998-6511





RECEIVED JUL 05 2018

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**Case Authorization and Privacy Release Form**

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**Your Information**(b) (6)  


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**Are you working with any other NM Delegation member ?**

No

**Please Explain the Problem with the Federal Government.**

The federal EPA is depending on a local EPA to obtain jurisdiction over my business. Below is a response to their latest move on our rights. This has gone on too long. Mr. Saunders, I returned home to find your letter dated June 18, 2018, in which you gave me 14 days to respond. I was confused by this letter. Paragraph one states, "The purpose of this letter is to notify you that the U. S. Environmental Protection Agency (EPA) plans to conduct an on-site compliance inspection of the public water system (System), referenced above." In the following paragraph you write, "This inspection will consist of, but not limited to, an observation of the operation and maintenance of the water system, review compliance of the Primary Drinking Water Regulations and, finally, a determination whether the (b) (6) water system meets the definition of a "public water system." Sir, with all due respect, you open your letter with a pre-determination that (b) (6) is a water system. That would be the only way you could legally assert jurisdiction, inviting yourself to come onto my property, and conduct an "on-site compliance inspection". You state it is your plan to inspect, "the public water system", demonstrating you already have a pre-conceived determination. To add to my confusion, Cheryl T. Seager, Director, wrote, on July 20, 2017 "In issues of determination of status as a water supply system the NMED has this authority." So which agency has this authority and from where is that authority derived? Mr. Saunders, a police officer, who was present when this discussion took place, provided me with this information; John Pijawka of the New Mexico Water Bureau entered into a conspiracy with one of my political rivals to close our business at (b) (6) by using the strong arm of the EPA. August 12th, 2010, Pijawka came onto my property, uninvited, and without probable cause and began to walk around. Since I had been pre-warned by the police this would happen, I asked him to leave. The next day Pijawka attempted to file charges on me for not allowing him on my property. Attached is his sworn statement. Six months later, February 01, 2011 Pijawka, filed an affidavit for a search warrant. In paragraph 12, on page 3, he swears, "On August 30, 2010, DWB received an "Open Records Act Request" from (b) (6) for his (b) (6) file. There has been no record of him at the DWB office as of this date." However, seventeen days before, Pijawka signed the below-attached complaint against me with the Sheriff's office, in an attempt to have me arrested. He went to the Sheriff's office on government time. So did Pijawka have a personal issue with me and chose not put this in the official file, or did he perjure himself in the affidavit? Either way, this is a problem. In paragraph 14 of Pijawka's affidavit, he states, "Without access to the Property, NMED will be unable to gather the necessary evidence to determine compliance with state and federal drinking water regulations under section 20.7.10 NMAC." The judge granted the warrant to allow Pijawka the power to do as he requested, "Gather the



necessary evidence to determine compliance with the state and federal water regulations under Section 20.7.10 NMAC." March 22, 2011, Pijawka served his warrant, bringing with him no less than a dozen others, who did not identify themselves, as well as two uniformed state police officers. When Pijawka served me with his warrant he handed me the original. Anyone who has ever served a warrant or who has been trained understands the original goes back to the court. The warrant instructed him to file a "return". He had no idea what a return was and would have left the property without it had I not brought it to his attention. Then, the State Police Officer and I had to help him with his paperwork. The warrant ordered Pijawka to provide me with a draw from the sample he took, which he failed to do. The state police officer stood beside me as Pijawka drove off. I called him, with the officer listening as I put Pijawka on speaker, to inform him he had not complied with the court order. Later in a conference call with Stephanie Stringer Chief of the New Mexico Drinking Water Department, Pijawka lied about this matter. Two days after serving the warrant, March 24th, Pijawka placed (b) (6) in the Boil Water Advisories List, which informs the world the park is, "under enforcement by U.S. EPA" It appears Pijawka is acting as your agent and under your supervision. I am a retired federal criminal investigator and I have no problem with compliance. I have read the law and knew this property does not fall under the provisions of the CFR and has been here prior to the CFR. However, I felt if Pajawka could demonstrate that I was wrong with the "evidence" the court allowed him to gather with the warrant, I would work with him. Under state IPRA, I've asked to see this evidence, he used to "determine compliance", which I have every right to see. That evidence has yet to be provided. The fact is, he gathered no evidence, and no such evidence exists. Even after Pijawka served his warrant to gather that very evidence, he, nor you, can give me a number of taps on this property. Since he did not gather the evidence, he was forced to falsify his Sanitary Survey. His own paperwork demonstrates he knowingly falsified his report. It was this falsified report your office has used to assert jurisdiction, threaten me with thousands of dollars of fines and invite yourself onto this property, as you did in your June 18th letter. Pijawka in falsifying a material fact, in an administrative matter is in violation of New Mexico Statute 30-25-1, a fourth-degree felony. To give himself jurisdiction he stated in his report that the park had one well and with one well the park would fall under the enforcement by EPA. However, Pijawka knew there were two wells and says as much in a previous letter. When the state of New Mexico EPA was forced to admit Pijawka falsified his report, began to attempt to cut off any legal action. The NMEPA forwarded a legal opinion to Ms. Hall of your office, who in turn forwarded this brief, dated March 4, 2014, to me. In this torturess application of an Indiana appellate court ruling, the state claimed the court ruled if a man owns more then one system they are considered one and would fall under the EPA's jurisdiction. NMEPA could not have imagined anyone would research this ruling. At first the court ruled against Indiana. The state appealed and claimed the courts did not factor into their ruling, "Indiana Administrative Code". This is what the court ruled on, Indiana Administrative Code. When did an RV park in New Mexico fall under the jurisdiction of Indiana Administrative Code? I have sent IPRA request for years asking for the evidence Pijawka said he was required to gather, but I have yet to see it. It took the state 5 years to produce pictures I asked for in an IPRA request. The fine for that violation is up to \$100 a day. I have asked the NMEPA for the process to dispute these actions. In an April 23, 2018 letter signed by John Verhelu, Assistant General Counsel for the New Mexico Environment Department, he informed me "there is not formalized appeals process for this sort of determination". Allow me to recap - 1. Pijawka has lied in his reports that keep (b) (6) under your jurisdiction, a felony. 2. It is this false report you now depend on to designate (b) (6) as a water system and invited yourself to come onto our property. 3. I have asked the state how I can appeal this decision, to which they tell me there is no appeal. It appears your stance is that is permissible for Pijawka to commit a felony to place (b) (6) / park is under your jurisdiction, with no due process? Mr. Saunders, your letter advised me, "If you would like to discuss the planned inspection, please contact me at 21-665-6471 or Saunders.Jerry@epa.gov or you may contact Ms. Chelo Hall, at 214-665-2716..." Ms. Hall had called me on Wednesday, June 13th, 2018 at 10:38 a.m. 5 days before you wrote your letter and I returned her call the next day. I left a message asking her to call me, I have yet to receive that callback. I can only assume that option in your letter is no longer valid. I have pointed out these felonies to Pijawka's supervisors with no results, and now to you. Failure to report these felonies is a violation of 18 USC § 4 Misprision of felony. I am willing to sit down and discuss this with you if you would like or you could provide the "Evidence" Pijawka said he needed to obtain through the service of the warrant but I am going on the record to say the EPA is NOT invited to enter my property. I have not begun any sort of court action in this matter and have much better things to do. I want to believe you are not aware of the facts and I want to give you the benefit of the doubt and would like to go on with

our lives without the threat of further harassment by the EPA. Thank you, and feel free to contact me. (b) (6)

I hereby request and authorize United States Senator Tom Udall and/or members of his staff, to make an inquiry on my behalf in addressing this matter. I further understand that I will save harmless any agencies divulging information pursuant to this release of information, as well as Senator Tom Udall and/or any representative of his staff in these matters.

Signature: (b) (6)

Date: 7.12.2018

Please sign and return to the office nearest you:

**Albuquerque**  
400 Gold Ave SW  
Suite 300  
Albuquerque, NM  
87102  
(505) 346-6791

**Las Cruces**  
201 N. Church Street  
Suite 201B  
Las Cruces, NM  
88001  
(575) 526-5475

**Santa Fe**  
120 South Federal Place  
Suite 302  
Santa Fe, NM  
87501  
(505) 988-6511

Please feel free to attach additional information and documentation.

(b) (6)

I will  
not allow the EPA on our property because of  
their illegal conduct.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TEXAS 75202 – 2733

Office of the Regional Administrator

July 31, 2018

The Honorable Tom Udall  
United States Senator  
Attn: Carlos Sanchez  
400 Gold Avenue SW, Suite 300  
Albuquerque, New Mexico 87102

Dear Senator Udall:

Thank you for your inquiry of July 9, 2018, to Mr. Troy Lyons of the U.S. Environmental Protection Agency on behalf of your constituent, (b) (6) regarding the (b) (6). Your inquiry, via Mr. Carlos Sanchez of your Albuquerque office, was forwarded to me for reply because New Mexico falls within the jurisdiction of Region 6.

The EPA is aware of (b) (6) concerns and is currently working with the New Mexico Environment Department to address issues related to compliance with the Safe Drinking Water Act at the (b) (6). The facility is subject to an open Administrative Order issued by the EPA in 2016.

If you have any further questions, please contact me at (214) 665-2100, or your staff may contact Mr. Austin Vela, Congressional Liaison, at (214) 665-9792.

Sincerely,

A handwritten signature in blue ink, which appears to read "Anne L. Idsal", is written over a light blue circular background.

Anne L. Idsal  
Regional Administrator

GREG WALDEN, OREGON  
CHAIRMAN

FRANK PALLONE, JR., NEW JERSEY  
RANKING MEMBER

ONE HUNDRED FIFTEENTH CONGRESS  
**Congress of the United States**  
**House of Representatives**

COMMITTEE ON ENERGY AND COMMERCE

2125 RAYBURN HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-6115

Majority (202) 225-2927  
Minority (202) 225-3641

June 25, 2018

The Honorable William Wehrum  
Assistant Administrator, Air and Radiation  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

Dear Mr. Wehrum:

Thank you for appearing before the Subcommittee on Environment on May 16, 2018, to testify at the hearing entitled "Legislation Addressing New Source Review Permitting Reform."

Pursuant to the Rules of the Committee on Energy and Commerce, the hearing record remains open for ten business days to permit Members to submit additional questions for the record, which are attached. To facilitate the printing of the hearing record, please respond to these questions with a transmittal letter by the close of business on Monday, July 9, 2018. Your responses should be mailed to Kelly Collins, Legislative Clerk, Committee on Energy and Commerce, 2125 Rayburn House Office Building, Washington, DC 20515 and e-mailed in Word format to [kelly.collins@mail.house.gov](mailto:kelly.collins@mail.house.gov).

Thank you again for your time and effort preparing and delivering testimony before the Subcommittee.

Sincerely,



John Shimkus  
Chairman  
Subcommittee on Environment

cc: The Honorable Paul Tonko, Ranking Member, Subcommittee on Environment

Attachment

## **Attachment—Additional Questions for the Record**

### **The Honorable John Shimkus**

1. Do you think this discussion draft under consideration today reforms the NSR program while still ensuring air regulators have the tools they need to protect air quality?
2. An important component of the NSR program focuses on how an owner determines if a potential project will cause an emissions increase, thereby requiring an owner to obtain an NSR preconstruction permit.
  - a. Why is the NSR program's current annual emission projection approach problematic for determining whether an emissions increase will occur?
  - b. Are there scenarios where the EPA's annual emission projection approach will predict on paper that a project will cause an emissions increase when in reality the project will not actually cause an emissions increase?
3. Some opponents of NSR reform believe that the NSR program is a critical program to force existing sources to adopt new pollution control technologies.
  - a. Besides the NSR program, what other Federal and State programs exist that can require or incentivize a facility to adopt new pollution control technologies?
4. The current NSR program has been characterized as "self-implementing," meaning that companies are able to determine the applicability of NSR requirements on their own and do not require preapproval from the EPA before carrying out projects at existing facilities that do not trigger NSR. Is there anything in the discussion draft that would undermine the self-implementing nature of the NSR program?

### **The Honorable Frank Pallone, Jr.**

1. Mr. Wehrum, at the hearing you committed to sharing the Office of Air and Radiation's comments on the recent Strengthening Transparency in Regulatory Science proposed rule. Please provide the Committee with those comments.

### **The Honorable Debbie Dingell**

On January 25th, EPA issued guidance that reversed the long standing "once in, always in" policy for major sources of hazardous air pollutants. In response, I sent EPA a letter in April, along with 86 colleagues, calling for the decision to be reversed.

In April, Administrator Pruitt told this committee that EPA conducted a review to determine which sources, and how many, would be covered by this policy change, and the magnitude of hazardous air pollution that could increase as a result.

1. Mr. Wehrum, did this review take place? If yes, when was it conducted, and is it publicly available? Please provide a copy of EPA's analysis.

In a recent report released by the Union of Concerned Scientists, 7 industrial facilities in my district alone could release an additional 155 tons of hazardous air pollutants per year with the rescission of this policy. It is still not clear whether EPA has looked at the full ramifications and potential health effects of this decision. At the April 26th hearing, Administrator Pruitt did not know whether EPA had analyzed the potential health effects of this policy, and pledged to "assess and provide" more information. I am still waiting for a response.

2. A. Mr. Wehrum, yes or no, before releasing the January 25th guidance did EPA conduct any scientific analysis of the potential human health effects of this decision?
3. If your answer to 2a is yes, when was the analysis conducted, and is it publicly available? Please provide a copy of this analysis to the Committee.
4. If your answer to 2a is no, has EPA conducted such an analysis since releasing the January 25th guidance?



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP - 6 2018

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable John Shimkus  
Chairman  
Subcommittee on Environment  
Committee on Energy and Commerce  
House of Representatives  
Washington, D.C. 20515

Dear Chairman Shimkus:

Enclosed please find the U.S. Environmental Protection Agency's responses to the Subcommittee's Questions for the Record following the May 16, 2018 hearing entitled "Legislation Addressing New Source Review Permitting Reform."

If you have further questions, please contact me or your staff may contact Karen Thundiyil in the EPA's Office of Congressional and Intergovernmental Relations at [thundiyil.karen@epa.gov](mailto:thundiyil.karen@epa.gov) or (202) 564-1142.

Sincerely,

A handwritten signature in black ink, appearing to read "T. Lyons", is written over the typed name of the Associate Administrator.

Troy M. Lyons  
Associate Administrator

Enclosure

## Attachment— Responses to Additional Questions for the Record

### The Honorable John Shimkus

1. Do you think this discussion draft under consideration today reforms the NSR program while still ensuring air regulators have the tools they need to protect air quality?

**Response:** I believe the reforms contained in the discussion draft would reduce the likelihood that the program will be a barrier to the implementation of beneficial projects, such as energy efficiency projects. The reforms would not affect any of the numerous other air quality management programs and tools that air regulators will continue to have at their disposal to ensure air quality protection.

2. An important component of the NSR program focuses on how an owner determines if a potential project will cause an emissions increase, thereby requiring an owner to obtain an NSR preconstruction permit.

- a. Why is the NSR program's current annual emission projection approach problematic for determining whether an emissions increase will occur?

**Response:** As noted above, the current annual emissions projections approach can be a disincentive to certain projects that improve facility operations and result in environmental benefits – most notably, energy efficiency projects. The current approach also causes confusion because it is inconsistent with the emissions test used in the NSPS program. The discussion draft would help address both problems.

- b. Are their scenarios where the EPA's annual emission projection approach will predict on paper that a project will cause an emissions increase when in reality the project will not actually cause an emissions increase

**Response:** Because the current annual emissions projection is a projection, it is possible that the actual emissions resulting from the implementation of a project would be less than initially anticipated. This is particularly the case for the current "actual-to-projected-actual" applicability test which relies on the source's pre-project estimates of future actual operating conditions and emissions.

3. Some opponents of NSR reform believe that the NSR program is a critical program to force existing sources to adopt new pollution control technologies.

- a. Besides the NSR program, what other Federal and State programs exist that can require or incentivize a facility to adopt new pollution control technologies?

**Response:** The discussion draft under consideration does not change the control technology component of the NSR program. As such, NSR will continue to be an emissions control program that requires sources to adopt state of the art pollution control technologies as appropriate and necessary. In addition to NSR, there are many other Federal and State programs authorized by the Clean Air Act that require or incentivize air pollution controls. Examples include:

- State plans developed pursuant to CAA § 110, including minor NSR programs



- New Source Performance Standards developed pursuant to CAA § 111
  - National Emissions Standards for Hazardous Air Pollutants pursuant to CAA § 112
  - The Acid Rain Program established under title IV of the CAA
  - Interstate transfer programs established under the ‘good neighbor’ provisions of CAA § 110 (e.g., the Cross-State Air Pollution Rule)
  - The Regional Haze Program under CAA § 169
4. The current NSR program has been characterized as “self-implementing,” meaning that companies are able to determine the applicability of NSR requirements on their own and do not require preapproval from the EPA before carrying out projects at existing facilities that do not trigger NSR. Is there anything in the discussion draft that would undermine the self-implementing nature of the NSR program?

**Response:** As currently drafted, the discussion draft reforms are not expected to affect the self-implementing nature of the NSR program.

**The Honorable Frank Pallone, Jr.**

1. Mr. Wehrum, at the hearing you committed to sharing the Office of Air and Radiation’s comments on the recent Strengthening Transparency in Regulatory Science proposed rule. Please provide the Committee with those comments.

**Response:** During the intra-agency deliberative process to develop the proposal, the Office of Air and Radiation’s immediate office worked with senior leadership in its respective programs to solicit verbal feedback regarding the potential implications of the concepts in the proposal on program priorities. This feedback was provided to the proposal development team prior to interagency review.

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In April, Administrator Pruitt told this committee that EPA conducted a review to determine which sources, and how many, would be covered by this policy change, and the magnitude of hazardous air pollution that could increase as a result.

1. Mr. Wehrum, did this review take place? If yes, when was it conducted, and is it publicly available? Please provide a copy of EPA’s analysis.

**Response:** The January 25, 2018 Wehrum guidance memo builds upon a 2007 proposed rule that addressed the same issue. In that proposal, EPA asserted that, “The environmental, economic, and energy impacts of the proposed amendments cannot be quantified without knowing which sources will avail themselves of the regulatory provisions proposed in this

rule and what methods of HAP emission reductions will be used. It is unknown how many sources would choose to take permit conditions that would limit their PTE to below major source levels.

Within this group it also is not known how many sources may increase their emissions from the major source MACT level (assuming the level is below the major source thresholds). Similarly, we cannot identify or quantify the universe of sources that would decrease their HAP emissions to below the level required by the NESHAP to achieve area source status.” (72 FR 77, January 3, 2007). In the 2007 proposed rule, EPA concluded that, “we believe it is unlikely that a source that currently emits at a level below the major source thresholds as the result of compliance with a MACT standard would increase its emissions in response to this rule. However, even if such increases occur, the increases will likely be offset by emission reductions at other sources that should occur as the result of this proposal. Specifically, this proposal provides an incentive for those sources that are currently emitting above major source thresholds and complying with MACT, to reduce their HAP emissions to below the major source thresholds.” (72 FR 73-74, January 3, 2007).

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**Response:** As explained above, EPA looked at the implications of the policy in the 2007 proposal and found it was “unlikely that a source that currently emits at a level below the major source thresholds as the result of compliance with a MACT standard would increase its emissions in response to this proposal.”

EPA is aware of the Union of Concerned Scientists report referenced in your question. As we noted in the 2018 Memo, EPA anticipates that it will be publishing a Federal Register notice to take comment on adding regulatory text that will reflect EPA’s plain language reading of the statute. Further, as we proceed through the rulemaking process, we will prepare appropriate economic and other analyses with respect to the action and provide details about the length of the comment period and location of any public hearing.

3. If your answer to 2a is yes, when was the analysis conducted, and is it publicly available? Please provide a copy of this analysis to the Committee.

**Response:** See above.

4. If your answer to 2a is no, has EPA conducted such an analysis since releasing the January 25th guidance?

**Response:** See above.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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OFFICE OF  
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House of Representatives  
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**Response:** See above.

4. If your answer to 2a is no, has EPA conducted such an analysis since releasing the January 25th guidance?

**Response:** See above



**ROBERT J. WITTMAN**  
1ST DISTRICT, VIRGINIA

HOUSE ARMED SERVICES COMMITTEE  
CHAIRMAN, SEAPOWER AND PROJECTION FORCES  
SUBCOMMITTEE  
TACTICAL AIR AND LAND FORCES

NATURAL RESOURCES COMMITTEE  
ENERGY AND MINERAL  
RESOURCES SUBCOMMITTEE  
WATER, POWER, AND OCEANS SUBCOMMITTEE

CO-CHAIR, CONGRESSIONAL  
SHIPBUILDING CAUCUS

CO-CHAIR, CONGRESSIONAL  
CHESAPEAKE BAY WATERSHED CAUCUS

CO-CHAIR, CONGRESSIONAL  
PUBLIC HEALTH CAUCUS



**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515**

June 27, 2018

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95 DUNN DRIVE SUITE 201  
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MECHANICSVILLE OFFICE  
6501 MECHANICSVILLE TURNPIKE SUITE 102  
MECHANICSVILLE, VA 23111  
(804) 730-6595

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Administrator Scott Pruitt  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Administrator Pruitt,

I am writing in support of Gloucester County, Virginia and their request submitted to the Environmental Protection Agency (Region 3). The request is to designate a "No Discharge Zone" for Sarah Creek and the Perrin River in Gloucester County.

Gloucester County has submitted a 55 page justification to the Virginia Department of Environmental Quality (DEQ) which was approved and submitted to the EPA on May 18, 2017.

I appreciate your attention and ask that you would give all consideration to the request submitted by Gloucester County. Please contact my office with any questions you may have.

With kind regards, I remain

Sincerely,

Rob Wittman  
Member of Congress



# *County of Gloucester*

P.O. BOX 329

*Gloucester, Virginia*

23061

(804) 693-4042  
FAX (804) 693-6004

MEMBER  
BOARD OF SUPERVISORS

June 5, 2018

The Honorable Robert J. Wittman  
2055 Rayburn House Office Building  
Washington, DC 20515

RE: No Discharge Zone Designation Approval

Dear Congressman Wittman,

I am writing to seek your help in expediting a "No Discharge Zone" designation approval by the Environmental Protection Agency (Region 3) for Sarah Creek and the Perrin River in Gloucester County.

Gloucester County staff prepared and submitted a 55 page justification for this request to the Virginia Department of Environmental Quality (DEQ) which was subsequently approved and submitted to the EPA on May 18, 2017.

We are now entering our second boating season for these waters and the water quality, shell fish harvesting, recreational use and wild life are being unnecessarily imperiled while we await this approval.

Sincerely,

Christopher A. Hutson  
Chair, Board of Supervisors

CAH:tc

cc: Gloucester County Board of Supervisors  
J. Brent Fedors, County Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

JUL 18 2018

The Honorable Robert Wittman  
Member, U.S. House of Representatives  
P.O. Box 3106  
Tappahannock, Virginia 22560

Dear Representative Wittman:

Thank you for your June 14 and June 27, 2018 letters to the U.S. Environmental Protection Agency (EPA) on behalf of your constituent, Mr. Christopher A. Hutson, regarding EPA's review of the no-discharge zone application submitted for Sarah Creek and Perrin River under Clean Water Act § 312(f)(3).

EPA is working with its state partners to evaluate the application package and develop a timeline for consideration of public comment. After considering public feedback, EPA will issue its final determination.

Thank you for sharing your constituent's concerns, and for your attention to this matter. If you have any questions, please do not hesitate to contact me or have your staff contact Mr. Brian Hamilton, EPA's Virginia Liaison, at 215-814-5497.

Sincerely,

A handwritten signature in blue ink, which appears to read "Cosmo Servidio", is written over a horizontal line.

Cosmo Servidio  
Regional Administrator



ROGER F. WICKER

MISSISSIPPI

ARMED SERVICES

COMMERCE, SCIENCE, AND TRANSPORTATION

ENVIRONMENT AND PUBLIC WORKS

RULES AND ADMINISTRATION

COMMISSION ON SECURITY  
AND COOPERATION IN EUROPE

# United States Senate

WASHINGTON, DC 20510

SUITE 555

DIRKSEN SENATE OFFICE BUILDING

WASHINGTON, DC 20510

(202) 224-6253

[www.wicker.senate.gov](http://www.wicker.senate.gov)

June 11, 2018

Mr. Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
Washington, D.C. 20560

Dear Administrator Pruitt:

I write to recommend (b) (6) to serve on the Environmental Protection Agency's National Drinking Water Advisory Council. (b) (6) has a wealth of experience in water management policy.

(b) (6)

(b) (6)

(b) (6)

I ask that you give him your strongest consideration.

Please do not hesitate to let me know if I can be of further assistance in this matter.

(b) (6)

Sincerely,

Roger F. Wicker

*I know  
personally. He is  
a top prospect  
R.*



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUL 24 2018

OFFICE OF WATER

The Honorable Roger F. Wicker  
United States Senate  
Washington, D.C. 20510

Dear Senator Wicker:

Thank you for your June 11, 2018, letter to the U.S. Environmental Protection Agency, recommending (b) (6) to serve on the EPA's National Drinking Water Advisory Council (NDWAC).

I appreciate your support for (b) (6). The deadline for traditional submission of prospective members was May 31, 2018. Please, however, have (b) (6)'s resume and interest statement emailed directly to the NDWAC Designated Federal Officer, Tracey Ward, at [ward.tracey@epa.gov](mailto:ward.tracey@epa.gov), no later than July 31, 2018, and we will consider him as well as other nominees.

The NDWAC is a multi-stakeholder committee that provides advice and recommendations to the EPA Administrator on cross-cutting issues related to drinking water quality and public health protection. Its members represent drinking water stakeholder groups including community-based organizations, academia, state and local government, business and industry, tribal and indigenous groups, and non-governmental organizations. The EPA solicits nominations for new members as terms expire and appreciates and considers all nominees.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Matt Klasen in the EPA's Office of Congressional and Intergovernmental Relations at [klasen.matthew@epa.gov](mailto:klasen.matthew@epa.gov) or (202) 566-0780.

Sincerely,

A handwritten signature in black ink, appearing to read "DP Ross", is placed below the word "Sincerely,".

David P. Ross  
Assistant Administrator

## United States Senate

WASHINGTON, DC 20510

July 19, 2018

Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20460

Daniel Meyer  
Secretary  
Wisconsin Department of Natural Resources  
101 S. Webster Street  
Madison, WI 53707-7921

Cathy Stepp  
Regional Administrator – Region 5  
U.S. Environmental Protection Agency  
Ralph Metcalfe Federal Building  
77 West Jackson Blvd  
Chicago, IL 60604-3590

Dear Acting Administrator Wheeler, Administrator Stepp and Secretary Meyer:

Communities in northeast Wisconsin are facing serious contamination challenges from perfluoroalkyl substances (PFASs), specifically perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS). While sampling is underway and response plans are being developed, many local residents have contacted me to share their concerns that the Environmental Protection Agency and Wisconsin Department of Natural Resources are not responding to this contamination with the urgency and seriousness this situation requires. I am calling on you, as leaders of the agencies responsible for protecting public health and the environment, to increase your engagement on this issue and work directly with the communities and members of the public to take further and faster action to fully respond to this public health and water quality threat.

While PFAS contamination is cause for concern across the country, the Town of Peshtigo and City of Marinette, Wisconsin, face particularly pressing and acute PFAS contamination concerns. The area is home to (b) (6), which has manufactured and tested firefighting foams that contain high concentrations of perfluorinated substances for decades. The contamination at this site has severe ramifications for public health, the safety of groundwater, and the protection of water quality in Lake Michigan, which is a source of drinking water to hundreds of thousands of people in the region. Addressing the present and future threat of PFAS in the Marinette area is critically important to protecting public health in the impacted communities and broader region.

The contamination at the site is substantial and severe, and ongoing testing is revealing further extents of contamination and related risks. There is a mobile underground plume of contaminants below the town of Peshtigo and the neighboring city of Marinette, which has contaminated groundwater and may interact with groundwater flows into adjacent ground and surface waters,



including Green Bay. Updated sampling recently detected high levels of PFAS in the surface waters of ditches connecting the (b) (6) site to Green Bay and its tributaries. Elevated levels of PFAS have also been found in the City of Marinette's wastewater treatment system. This finding is particularly concerning because treated wastewater is released to tributaries that flow into Green Bay, and processed solids from the plant are spread on fields, potentially dispersing concentrated PFAS into the soil.

Given the complex nature of the hydrology and ecosystems in the area, and the evolving scientific understanding of these chemicals, it is critical that national and state experts are fully engaged to assist the company and community in responding to this contamination. This is important to protect the health of local residents, as well as the health of the hundreds of thousands of people across the region who get their drinking water from Green Bay and Lake Michigan, and the health of Lake Michigan and the ecosystem it supports.

As response plans are being developed, I urge you to incorporate frequent and meaningful opportunities for public input that inform the approaches implemented at the site, including on sampling methods, treatment strategies, and remediation plans. Local residents were exposed to these chemicals for a long time before their risk was addressed, and they face the challenges associated with health impacts, property value decreases, and the uncertainty of the long-term impacts of these exposures. It is crucial they have a meaningful role in shaping the next series of actions, which will impact their families, their properties, and the region.

The EPA has affirmed that this family of chemicals are harmful to human health and have extremely long lasting impacts on ecological systems. The timing of the EPA's national response to the threat of these chemicals has been unacceptably slow given the severity of the health threat posed by these substances. The EPA and Department of Health and Human Services took an important, though very delayed, step when they released the Agency for Toxic Substances and Disease Registry (ATSDR) toxicological study on PFAS in June. The report's release was unduly delayed, and it was made public only after my Senate colleagues and I sent a letter urging the agencies to release it, and then after we included a provision requiring its release in next year's EPA funding bill. As you know, the results of the study suggested that perfluorinated substances may be even more harmful to human health than first believed. As the dangers of these chemicals become clearer, as indicated by the ATSDR study, it is critical that you address PFAS contamination with urgency commensurate to the serious threat it poses to public health. In order to protect public health, EPA must dedicate budget resources to the staff, research, monitoring, and response necessary to help communities and states respond to these contaminants.

I ask that the EPA and DNR collaborate to address the pressing health threats of contaminated water use by first ensuring the provision of clean water to impacted individuals, including households that are on private wells and municipal water systems. In addition, it is critical that households in the area have information about their potential risks for contamination, as well as information on the specific health threats and symptoms they should be aware of. I ask that you work to provide this information in coordination with local, state, and national health officials and provide the best available information, updated as additional health information is developed related to these chemicals and this site. The public has a right to understand the risks of



contamination and have full and accurate information about options to protect their families, and to respond to harms incurred.

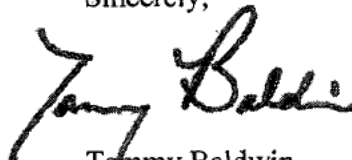
Both agencies also have a duty to address the broader source of the contamination by establishing enforceable regulatory standards for PFAS in drinking water and eliminating sources of PFAS contamination. To facilitate remediation efforts, I reiterate my request expressed in an April 13, 2018, letter to the EPA Administrator for the agency to establish a federal Maximum Contaminant Level (MCL) for PFAS. The DNR may also establish a Wisconsin state standard that is enforceable; multiple states, including Michigan and Minnesota, have established their own MCLs for certain perfluorinated substances. An appropriate MCL should incorporate scientific findings respected by the public health community, the recently released ASTDR report, and reflect the exposure risks faced by people exposed to these chemicals in routine or acute events, as well as vulnerable populations. Establishing an MCL is an important step to addressing public concerns about the cleanup response at this and other sites, and it should move forward as quickly as possible.

Furthermore, I ask that both the DNR and EPA increase transparency and communication with residents potentially impacted by PFAS contamination from the <sup>(b) (6)</sup> facility. Maintaining an up-to-date website where residents in the local area and region can access information about health threats, water quality and remediation efforts is very important to ensuring the public's access to information. Hosting regular public meetings announced with adequate notice and communicating with local elected representatives in a way that is recorded and publically available is crucial to ensuring the public has full access to information that impacts them, their families, their communities, and our natural resources.

Finally, while these foams are widely used, effective tools for first responders, their high PFAS content threatens human health, endangering the lives of those who serve to keep our communities safe. Their health should not be jeopardized by this threat, and safer alternatives should be developed. I urge you to work with other agencies to address exposure issues for first responders and other workers who have had acute or long-term exposure to these chemicals to ensure that risk-based information informs health screenings and the development of safer alternatives that perform effectively.

Thank you for your work to address the threats from these chemicals and the contamination at this site, and for your action in response to these requests on behalf of the constituents we serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Tammy Baldwin". The signature is fluid and cursive, with the first name "Tammy" written in a larger, more prominent script than the last name "Baldwin".

Tammy Baldwin  
United States Senator



**Committee on Transportation and Infrastructure**  
**U.S. House of Representatives**

**Will Shuster**  
**Chairman**

**Washington, DC 20515**

**July 9, 2018**

**Peter A. DeFazio**  
**Ranking Member**

Christopher W. Vieson, Staff Director

Katherine W. Dedrick, Democratic Staff Director

The Honorable Andrew Wheeler  
Acting Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW, Mail Code 1101A  
Washington, D.C. 20460

The Honorable Patrick Breyse  
Director  
Agency for Toxic Substances and Disease Registry  
4770 Buford HWY NE  
Atlanta, Georgia 30341

Acting Administrator Wheeler and Director Breyse:

We write to convey our concern about the manner in which the Agency for Toxic Substances and Disease Registry (ATSDR) made available the Draft Toxicological Profile for Perfluoroalkyls for review and comment on June 21, 2018, in the Federal Register.<sup>1</sup> We are particularly concerned by recent press reports that political aides in the White House and aides to former Administrator Pruitt sought to block the release of the study, warning that it would cause “a public relations nightmare.”<sup>2</sup>

Perfluoroalkyl substances, or PFAS, are man-made chemicals that have been used in industry and consumer products since the 1950s. They can be found in non-stick cookware, firefighting foams, cosmetics, and stain-resistant fabrics and carpets. ATSDR defines the toxicological profile of PFAS to include 14 separate chemical compounds, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonic acid (PFOS). PFOA and PFOS have been found in air, water, and soil in and around fluorochemical facilities in as many as 15 states. They have even been detected in surface water, ground water (including drinking water), and food. Studies have shown connections between PFAS exposure and a wide range of adverse health outcomes, including liver damage, cancer, and increased risk of pregnancy-induced hypertension and pre-eclampsia, asthma, and decreased fertility.<sup>3</sup>

<sup>1</sup> Availability of Draft Toxicological Profile: Perfluoroalkyls, 83 Fed. Reg. 28849 (Jun. 21, 2018).

<sup>2</sup> Annie Snider, *White House, EPA headed off Chemical Pollution Study*, POLITICO (May 14, 2018), <https://www.politico.com/story/2018/05/14/emails-white-house-interfered-with-science-study-536950>.

<sup>3</sup> Toxicological Profile for Perfluoroalkyls Draft for Public Comment, 83 Fed. Reg. 28849 (Jun. 2018).

ATSDR was created by Congress, through the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), more commonly known as Superfund, to assist the Environmental Protection Agency (EPA) and other Federal agencies in determining which toxic substances to regulate, and to determine what exposure levels may pose a threat to human health. According to its guidelines, ATSDR develops toxicological profiles for those toxic substances most commonly found at Superfund sites that pose significant potential threat to human health.

The Draft PFAS Toxicological Profile found that PFAS-contaminated groundwater across the country, especially near military bases, was far more toxic and widespread than previously realized. ATSDR, citing EPA's data, reported that 66 public drinking water systems that serve 6 million U.S. residents had at least one sample that exceeded EPA's current health advisory level for PFOA and PFOS, and that 59 out of 4,905, or more than 1 percent, of public water supplies were also identified as having levels of PFOA and PFOS above EPA's health advisory levels.

More alarmingly, however, the study found that EPA's current exposure levels for PFOS and PFOA are not supported by current data, and are not, necessarily, protective of human health. ATSDR's profile set the minimal risk levels, or the levels of how much someone could safely be exposed to, at about 7 parts per trillion for PFOS and 11 parts per trillion for PFOA. The EPA's 2016 health advisory for PFOS and PFOA, however, set the combined safe exposure level for both substances at 70 parts per trillion.

The EPA's mission statement<sup>4</sup> is "to protect human health and the environment." In furtherance of this mission, EPA states it will ensure that "Americans have clean air, land and water;" that "National efforts to reduce environmental risks are based on the best available scientific information;" and that "all part of society... have access to accurate information sufficient to effectively participate in managing human health and environmental risks."

In our view, any effort by the Trump administration to suppress the ATSDR study would be wholly inconsistent with the stated missions of the EPA and its statutory responsibility to protect public health. As reported by *Politico*, one White House aide wrote in an e-mail dated January 30, 2018, "The public, media, and Congressional reaction to these numbers is going to be huge."<sup>5</sup> The e-mail added, "The impact to EPA and [the Defense Department] is going to be extremely painful. We (DoD and EPA) cannot seem to get ATSDR to realize the potential public relations nightmare this is going to be."<sup>6</sup>

Reports of political appointees within the administration attempting to suppress ATSDR's draft toxicological profile for PFOS cast serious doubts over the administration's commitment to protecting the American public and environment from harmful toxic chemicals. In light of these reports, and in furtherance of our Congressional oversight of CERCLA, we ask that you respond immediately to the following questions and requests for information:

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<sup>4</sup> See "About EPA – Our Mission and What We Do" <https://www.epa.gov/aboutepa/our-mission-and-what-we-do>.

<sup>5</sup> Annie Snider, *White House, EPA headed off Chemical Pollution Study*, *POLITICO* (May 14, 2018).

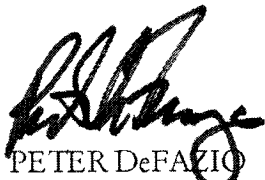
<sup>6</sup> *Id.*

The Honorable Andrew Wheeler  
The Honorable Patrick Breysse  
July 9, 2018  
Page 3

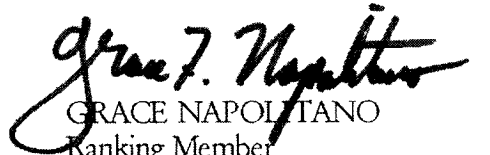
- 1) Please provide us with a copy of all EPA or ATSDR memos, internal communications, emails, or other documents that reference the release of ATSDR's Draft Toxicological Profile for Perfluoroalkyls.
- 2) Please provide us with a list of all other draft toxicological profiles currently under development at ATSDR and a timetable for their expected dates of release.
- 3) Please provide us with your intended schedule for publication and release of ATSDR's Final Toxicological Profile for Perfluoroalkyls and your plans for insulating the release of the final profile from political influences within the administration.
- 4) Please provide us with your intended action plan to address both the exposure concerns raised by the ATSDR report, including ongoing releases of PFAS from manufacturing facilities and firefighting techniques, as well as the Trump administration's action plan to address the health of military families and other communities associated with known contamination of groundwater sites associated with DOD facilities.

Thank you for your prompt attention to this matter. Please reply to this letter as soon as possible, but no later than July 31, 2018. Should you have any questions, please contact the Democratic Staff of the Subcommittee on Water Resources and Environment at 202-225-0060.

Sincerely,



PETER DeFAZIO  
Ranking Member



GRACE NAPOLITANO  
Ranking Member  
Subcommittee on Water Resources  
and Environment

# United States Senate

WASHINGTON, DC 20510

May 29, 2018

Mr. Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW  
Washington, DC 20004

Dear Administrator Pruitt:


I write in support of the The Trust for Public Land proposal, "Greening Schoolyards for Environmental Health and Protection Project" requesting funding from the 2018 U.S. EPA Environmental Education Local Grants Program.

The Trust for Public Land (TPL), a national nonprofit organization, works across the U.S. to provide multi-benefit spaces for people to enjoy as parks, gardens, and other natural places, ensuring livable communities for generations to come. TPL has been actively engaged in New York City for more than three decades, making the city and region a greener, healthier, and more sustainable place to live by renovating asphalt schoolyards into vibrant "green schoolyards" that both manage storm water through the implementation of green infrastructure and connect youth to the natural environment.

TPL's "Greening Schoolyards for Environmental Health and Protection Project" involves the adaptation and implementation of existing TPL curriculum that utilizes renovated schoolyards as unique living laboratories, and will educate students about local environmental issues, threats, and vulnerabilities, and empower them to make decisions affect positive changes in their neighborhoods. As a result of this project, students will interact with and care for their green schoolyards, which will lead to environmental improvements through storm water capture, flood protection, and water quality issue prevention. I applaud The Trust for Public Land for its foresight, and sincerely hope the application meets with your approval.

Thank you for your consideration. Please do not hesitate to contact me or my Grants Coordinator in my Washington, DC office at 202-224-6542.

Sincerely,

  
Charles E. Schumer  
United States Senator



## Eades, Cassaundra

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**From:** Williams, Thea  
**Sent:** Wednesday, August 01, 2018 9:34 AM  
**To:** Eades, Cassaundra; Mims, Kathy  
**Subject:** RE: For Closure: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi: The reason is because Troy said per OPEE. Thanks, Thea

**From:** Tanner, Lee  
**Sent:** Tuesday, July 31, 2018 2:28 PM  
**To:** Williams, Thea <Williams.Thea@epa.gov>  
**Cc:** Moody, Christina <Moody.Christina@epa.gov>  
**Subject:** RE: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi Thea,

Tate spoke to troy. We are good on not providing response letters on these.

---

**From:** Eades, Cassaundra  
**Sent:** Tuesday, July 31, 2018 3:23 PM  
**To:** Williams, Thea <Williams.Thea@epa.gov>; Mims, Kathy <Mims.Kathy@epa.gov>  
**Cc:** Moody, Christina <Moody.Christina@epa.gov>  
**Subject:** RE: For Closure: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

We need a reason why to close them out. We have to put it in cms.

---

**From:** Williams, Thea  
**Sent:** Tuesday, July 31, 2018 3:17 PM  
**To:** Mims, Kathy <Mims.Kathy@epa.gov>; Eades, Cassaundra <Eades.Cassaundra@epa.gov>  
**Cc:** Moody, Christina <Moody.Christina@epa.gov>  
**Subject:** For Closure: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi Sandy/Kathy:

Per Troy's direction below. Please close the following controls:

AL-18-000-8923  
AL-18-000-8684  
AL-18-000-6743  
AL-18-000-8816  
AL-18-000-8481

Thanks, Thea

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**From:** Richardson, RobinH  
**Sent:** Tuesday, July 31, 2018 2:45 PM  
**To:** Moody, Christina <Moody.Christina@epa.gov>

Cc: Tanner, Lee <[Tanner.Lee@epa.gov](mailto:Tanner.Lee@epa.gov)>; Williams, Thea <[Williams.Thea@epa.gov](mailto:Williams.Thea@epa.gov)>  
Subject: Re: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Thank you Christina!

-----  
Robin H Richardson  
PDAA/OCIR  
202-564-3358 (desk)  
(b) (6) (cell)  
[richardson.robinh@epa.gov](mailto:richardson.robinh@epa.gov)

On Jul 31, 2018, at 2:32 PM, Moody, Christina <[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)> wrote:

**Adding Robin for awareness.**

Christina J. Moody | Office of Congressional & Intergovernmental Relations  
U.S. Environmental Protection Agency | 1200 Pennsylvania Ave NW (MC-1301A) | Washington DC |  
20460  
[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)

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**From:** Tanner, Lee  
**Sent:** Tuesday, July 31, 2018 2:28 PM  
**To:** Williams, Thea <[Williams.Thea@epa.gov](mailto:Williams.Thea@epa.gov)>  
**Cc:** Moody, Christina <[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)>  
**Subject:** RE: Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi Thea,

Tate spoke to troy. We are good on not providing response letters on these.

---

**From:** Williams, Thea  
**Sent:** Tuesday, July 31, 2018 2:21 PM  
**To:** Tanner, Lee <[Tanner.Lee@epa.gov](mailto:Tanner.Lee@epa.gov)>  
**Cc:** Moody, Christina <[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)>  
**Subject:** Status: Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi Lee: What is the status on these? Thanks, Thea

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**From:** Williams, Thea  
**Sent:** Friday, July 27, 2018 9:30 AM  
**To:** Tanner, Lee <[Tanner.Lee@epa.gov](mailto:Tanner.Lee@epa.gov)>  
**Cc:** Moody, Christina <[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)>  
**Subject:** Follow-up: Cleared: OPEE Responses on Environmental Education Grants

Hi Lee: Pre our conversation, I elevated the issue concerning the timing of the support letters from the Hill and the awarding of the grants. OCIR wants to respond to the congressional members. Please update the attached letters to reflect the current status of the grants. Also, please prepare the response to Senator Schumer as well. Let me know if you have any questions or need help with the CMS process. Thanks. Thea



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**From:** Williams, Thea  
**Sent:** Tuesday, July 24, 2018 11:00 AM  
**To:** Tanner, Lee <[Tanner.Lee@epa.gov](mailto:Tanner.Lee@epa.gov)>  
**Cc:** Moody, Christina <[Moody.Christina@epa.gov](mailto:Moody.Christina@epa.gov)>  
**Subject:** OCRI Cleared: OPEE Responses on Environmental Education Grants

The attached are cleared. Please prepare final signature packages. If you need letterhead, please let me know. Thanks, Thea (202-564-2064)

# Congress of the United States

## House of Representatives

COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY

2321 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6301

(202) 225-6371  
www.science.house.gov

June 28, 2018

The Honorable Scott Pruitt  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave NW  
Washington, D.C. 20460

Dear Administrator Pruitt,

The Committee on Science, Space, and Technology is conducting oversight of the concealed use of technology to illegally circumvent emissions requirements. The Committee previously wrote Volkswagen AG (VW) regarding allegations that VW “continues to circumvent global emissions requirements” using stealth technology,<sup>1</sup> despite VW entering into a settlement with the U.S. government for billions of dollars for previous “allegations of cheating emissions tests and deceiving customers.”<sup>2</sup> The Committee is also examining increasing allegations that other automobile companies have similarly concealed the use of technology to control emissions in order to evade and defeat U.S. regulations on emissions standards, and the role that Robert Bosch GmbH (Bosch), an auto supplier of critical software controlling emissions, has played in the schemes.<sup>3</sup> As part of this continued investigation, the Committee requests a briefing related to the U.S. Environmental Protection Agency’s (EPA) knowledge of the current research, development, and technology used to control and test emissions, as well as the current status of investigations into reported allegations.

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<sup>1</sup> Letter from Hon. Lamar Smith, Chairman, H. Comm. on Sci., Space, & Tech. and Hon. Dana Rohrabacher, Member, H. Comm. on Sci., Space, & Tech. Comm. to Mr. Herbert Deiss, Chief Exec. Officer, Volkswagen AG (Apr. 12, 2018); Letter from Hon. Lamar Smith, Chairman, H. Comm. on Sci., Space, & Tech. and Hon. Dana Rohrabacher, Member, H. Comm. on Sci., Space, & Tech. Comm. to Mr. Herbert Deiss, Chief Exec. Officer, Volkswagen AG (June 14, 2018).

<sup>2</sup> Press Release, U.S. Dep’t of Justice, *Volkswagen to Spend Up to \$14.7 Billion to Settle Allegations of Cheating Emissions Tests and Deceiving Customers on 2.0 Liter Diesel Vehicles* (June 28, 2016), <https://www.justice.gov/opa/pr/volkswagen-spend-147-billion-settle-allegations-cheating-emissions-tests-and-deceiving>; see also Press Release, U.S. Dep’t of Justice, *Volkswagen AG Agrees to Plead Guilty and Pay \$4.3 Billion in Criminal and Civil Penalties; Six Volkswagen Executives and Employees are Indicted in Connection with Conspiracy to Cheat U.S. Emissions Tests* (Jan. 11, 2017), <https://www.justice.gov/opa/pr/volkswagen-ag-agrees-plead-guilty-and-pay-43-billion-criminal-and-civil-penalties-six>.

<sup>3</sup> Jack Ewing, *Supplier’s Role Shows Breadth of VW’s Deceit*, N.Y. TIMES (Feb. 1, 2017), <https://nyti.ms/2jVAsOo>.

The Committee has advocated a restrained approach to regulation. However, where regulations are deemed necessary, any efforts to circumvent those rules can result in unfair competition and public harm. The Committee is wary that more companies are engaging in research and development aimed at defeating emissions standards, as well as using emerging technologies to manipulate and defeat the same U.S. regulations. The Committee hopes to work with the EPA to ensure that companies—foreign and domestic—are not using emerging technologies to subvert our tough emissions standards.

EPA plays a critical role in research and development for the setting national standards for vehicle tailpipe emissions of certain pollutants. The increasing use of advanced technology in vehicles to reduce emissions requires persistent and thorough oversight. EPA's development of extensive testing regimens using both laboratory testing and the emissions simulators allows for the ongoing development of new methods to test emissions. This includes determining new technology effectiveness to keep up with the latest engine specifications. Moreover, highlighting the increasing prioritization of understanding and regulating this technology, the director of EPA's Criminal Investigation Division has recently detailed how "finding instances of cars and trucks that have been doctored to pass emissions tests is now a top priority for agents."<sup>4</sup> EPA's inspector general also recently highlighted EPA's efforts to increase testing that better replicates real-world driving and recommended other procedural and information sharing steps, such as better internal controls, which would help prevent emissions fraud on EPA's testing.<sup>5</sup>

Recent reports and law enforcement action against VW, which was found guilty of similar emissions cheating issues, indicate that there could still be potential issues within the company that would be of concern to the U.S. government.<sup>6</sup> VW continues to operate under a cloud—news broke recently that VW was required to pay over a billion dollar fine in Germany and that the CEO for VW's Audi brand was arrested related to ongoing investigations.<sup>7</sup> A confidential Independent Compliance Monitor report on VW—a report required under the settlement between the U.S. government and VW—found VW "had failed to hold executives accountable for wrongdoing that led to the huge emissions fraud, and [VW] was not making a serious enough attempt to remake its culture."<sup>8</sup>

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<sup>4</sup> David Schultz, *Environmental Cops Cracking Down on Car Emissions Cheating*, BLOOMBERG (June 12, 2018), <https://www.bgov.com/core/news/#!/articles/PA88LJ6JTSEE>.

<sup>5</sup> U.S. ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF INSPECTOR GENERAL, EPA DID NOT IDENTIFY VOLKSWAGEN EMISSIONS CHEATING; ENHANCED CONTROLS NOW PROVIDE REASONABLE ASSURANCE OF FRAUD DETECTION (May 15, 2018), [https://www.epa.gov/sites/production/files/2018-05/documents/\\_epaig\\_20180515-18-p-0181.pdf](https://www.epa.gov/sites/production/files/2018-05/documents/_epaig_20180515-18-p-0181.pdf).

<sup>6</sup> Jack Ewing, *Overseer Faults Volkswagen's Reform Efforts Since Emissions Scandal*, N.Y. TIMES (Apr. 22, 2018), <https://nyti.ms/2vxW5Ud>; Jack Ewing, *Top Porsche Official Targeted in German Police Raid Tied to Diesel Scheme*, N.Y. TIMES (Apr. 18, 2018), <https://nyti.ms/2vpLdHV>; Reuters Staff, *Prosecutors search Volkswagen headquarters in new emissions investigation*, REUTERS (Mar. 20, 2018), <https://www.reuters.com/article/us-volkswagen-emissions/prosecutors-search-volkswagen-headquarters-in-new-emissions-investigation-idUSKBN1GW0PT>.

<sup>7</sup> William Boston, *Volkswagen Fined \$1.17 Billion in Germany in Emissions-Cheating Scandal*, WALL ST. J. (June 13, 2018); Edward Taylor & Jan Schwartz, *Head of VW's Audi arrested in Germany over diesel scandal*, REUTERS (June 18, 2018), <https://www.reuters.com/article/us-volkswagen-emissions-stadler/audi-ceo-arrested-volkswagen-idUSKBN1JE0R3>.

<sup>8</sup> Ewing, *Overseer Faults Volkswagen's Reform Efforts Since Emissions Scandal*, *supra* note 6.

Of additional significant concern is the broad nature of the deception and coordination that is required to control emissions through a defeat device. VW used Bosch built electronic control modules and software to form defeat devices that enabled their vehicles to deceive emissions testing.<sup>9</sup> Detailed specification requests from VW resulted in Bosch developing code that would instruct the computers in diesel engines to recognize the conditions that were similar to those of emissions testing parameters.<sup>10</sup> This allowed the vehicles' computer systems to fully deploy pollution controls selectively when the software recognized those normal testing driving conditions present or for a set duration of time after the engine is started.<sup>11</sup> Once the technology determined the vehicle was not under testing conditions, "the vehicle [could] switch to an operating regime favored by the manufacturer for real driving rather than the clean regime necessary to pass the emission test."<sup>12</sup> Furthermore, as part of an effort to cover up the illegal nature of the defeat device, Bosch has been accused of altering onboard diagnostics systems to not provide emissions system malfunction warnings, deleting text from software documents to reduce suspicion, and helping conceal the presence of the software from authorities and the government.<sup>13</sup>

While Bosch has not officially admitted wrongdoing for its role in any of the legal settlements resulting from the VW litigation, there remain questions about how they could knowingly allow their proprietary software to be manipulated with obvious illegal intent. As one of the world's largest auto suppliers, the presence of similar Bosch software on other vehicles is something we hope EPA is monitoring. In addition to Bosch software in vehicles, the company is also a major producer of the semiconductor chips used in cars and smartphones, controlling the technology behind airbags, automatic car parking, and motion sensing.<sup>14</sup> The importance of this technology will only continue to increase with electronic mobility and automated driving functions, making it imperative to know that one of the major companies behind the technology has operated in an open and honest manner. There is a need to better recognize the challenges of verifying this technology and understand techniques that will shed light on software and systems that may try to hide nefarious behavior. The Committee intends to further understand the relationship between the development of this technology and the application by companies to meet regulations.

Although VW has been the most prominent example for emissions related violations, recent media reports reveal comparable misconduct throughout the auto industry. Internal employee discussions at other companies acknowledging software functions acted as "essentially a defeat device" and the increasing allegations of the use of similar illegal technology in other

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<sup>9</sup> Ryan Beene, *Bosch software enabled emissions violations by VW, FCA, study says*, AUTO. NEWS (June 9, 2017), <http://www.autonews.com/article/20170609/OEM11/170609775/bosch-software-enabled-emissions-violations-by-vw-fca-study-says>.

<sup>10</sup> Ewing, *supra* note 3; Moritz Contag et al., *How They Did It: An Analysis of Emission Defeat Devices in Modern Automobiles*, IEEE 2017 SYMPOSIUM ON SECURITY & PRIVACY 231 (2017).

<sup>11</sup> *Id.*

<sup>12</sup> Contag et al., *supra* note 10, at 236.

<sup>13</sup> Ewing, *supra* note 3.

<sup>14</sup> Martin-Werner Buchenau & Joachim Hofer, *Bosch powers the chip boost in cars — and iPhones*, HANDELSBLATT (Apr. 5, 2018), <https://global.handelsblatt.com/companies/bosch-powers-ever-more-cars-and-iphones-907449>.

The Honorable Scott Pruitt  
June 28, 2018  
Page 4 of 4

vehicles to cheat on emissions tests,<sup>15</sup> demonstrate the need for continuing oversight. The Committee has an obligation to investigate the science and technology underpinning legal and regulatory actions. Where U.S. policymakers have determined there is a need for regulations, it is incumbent upon this Committee to investigate to ensure that research and development on emerging technologies in the automobile and other industries is not used to illegally circumvent regulations.

The Committee on Science, Space, and Technology has jurisdiction over environmental and scientific research and development programs and "shall review and study on a continuing basis laws, programs, and Government activities" as set forth in House Rule X. The Committee is interested in further understanding and identifying any emerging or stealth technologies used to circumvent U.S. regulations. To assist the Committee with its investigation, we request a briefing from the EPA. Please contact Travis Voyles or Ashley Callen of the Committee staff at 202-225-6371 to schedule a briefing on or before July 12, 2018. Thank you for your attention to this matter.

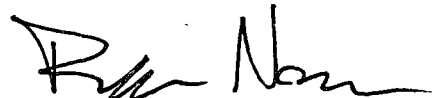
Sincerely,



Lamar Smith  
Chairman



Dana Rohrabacher  
Member of Congress



Ralph Norman  
Member of Congress

cc: The Honorable Eddie Bernice Johnson, Ranking Member, House Committee on Science, Space, and Technology

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<sup>15</sup> See Chester Dawson & Mike Spector, *Fiat Chrysler Employees Knew of Emissions Cheating, Documents in Shareholder Suit Claim*, WALL ST. J. (May 14, 2018), <https://www.wsj.com/articles/fiat-chrysler-employees-knew-of-emissions-cheating-documents-in-shareholder-suit-claim-1526350332>; *Mercedes diesel probe in U.S. finds possible 'defeat' software, paper says*, AUTO. NEWS (Feb. 18, 2018), <http://europe.autonews.com/article/20180218/ANE/180219749/mercedes-diesel-probe-in-u-s-finds-possible-defeat-software-paper>.

# United States Senate

WASHINGTON, DC 20510

June 29, 2018

The Honorable Scott Pruitt  
Administrator  
Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator Pruitt:

We write today to thank the Environmental Protection Agency (EPA) for hosting the first per- and polyfluoroalkyl substances (PFAS) community engagement event in Exeter, New Hampshire.

Granite Staters have been national leaders in advocating for the health and safety of their families and neighbors, and this productive forum was an important first step in ensuring that communities impacted by PFAS contamination have a seat at the table and an opportunity for their voices to be heard. We are hopeful that the EPA will take the concerns and recommendations that were raised by community leaders, as well as state and local officials, to help inform future meaningful federal action on these chemicals. This includes advancing conversations and solutions that consider the entire class of PFAS chemicals.

As you know, PFAS contamination in drinking water is an issue not only in our home state of New Hampshire, but across the country. It is critical for the EPA to take immediate action to protect citizens from further contamination and ensure that responsible parties are held liable for addressing any resulting health and safety concerns.

In order to address this problem, the EPA has said it is "beginning the necessary steps to propose designating PFOA and PFOS as 'hazardous substances' through one of the available statutory mechanisms, including potentially Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 102." By doing so, PFAS will be covered under the EPA's CERCLA, and therefore require responsible parties to be held accountable for any future release. It is appropriate that the EPA evaluates the necessary steps for such a designation, which has support throughout communities affected by PFAS contamination, and we respectfully request additional information about the steps and timeline the EPA is taking to consider this proposal.

As EPA staff travels to other communities impacted by PFAS contamination, we encourage the agency to continue listening, and to not lose sight of the urgent need to move forward in protecting our citizens and our natural resources from these toxic chemicals. Hosting similar events in other regions of the country is important, but we hope that the agency will take action

to address PFAS concurrently with future engagement events instead of waiting until they are all completed.

Thank you for your attention to this matter. We look forward to hearing more about what next steps the EPA will take to protect New Hampshire and our country from PFAS contamination.

Sincerely,

A handwritten signature in black ink, appearing to read "Maggie Hassan", written over a horizontal line.

Margaret Wood Hassan  
United States Senator

A handwritten signature in black ink, appearing to read "Jeanne Shaheen", written over a horizontal line.

Jeanne Shaheen  
United States Senator





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 25 2018

OFFICE OF  
WATER

The Honorable Margaret Wood Hassan  
United State Senate  
Washington, D.C. 20510

Dear Senator Hassan:

Thank you for your June 29, 2018, and July 12, 2018, letters to the U.S. Environmental Protection Agency regarding the per- and polyfluoroalkyl substances (PFAS) community engagement event in Exeter, New Hampshire, and the actions the EPA is taking to address PFAS.

The EPA recognizes the challenges that states, tribes, and communities with PFAS contamination are facing, and is committed to working side by side with our federal, state, local, and tribal partners to address these concerns. As you know, on May 22-23 of this year, the EPA hosted a two-day National Leadership Summit (Summit) on PFAS in Washington, D.C. The Summit included representatives from over 40 states, tribes, and territories; 13 federal agencies; congressional staff; associations; industry groups; and non-governmental organizations. As part of the Summit, the EPA announced four key actions the Agency will take in the near term on PFAS. Details on these four key actions and more information on PFAS is available at <https://www.epa.gov/pfas>. Acting Administrator Wheeler has reinforced the EPA's commitment to taking the actions announced at the PFAS National Leadership Summit in May and to developing a PFAS Management Plan by the end of 2018.

Since the Summit, the EPA has been visiting and engaging with communities impacted by PFAS contamination to hear directly from the public. The June 25-26 PFAS community engagement event in Exeter was an important opportunity for the EPA to hear firsthand from New England communities impacted by PFAS, and the Agency appreciates your help in making the event meaningful for those that could attend. Your office's engagement and participation helped set the stage for the two-day event where more than 200 participants heard from speakers that included community advocates, local officials, and state public health and environmental agency representatives.

Following the Exeter event, the EPA scheduled four additional community engagement sessions, in Horsham, Pennsylvania (July 25); Colorado Springs, Colorado (August 7-8); Fayetteville, North Carolina (August 14); and Leavenworth, Kansas (September 5). The EPA also engaged with tribal representatives at the Tribal Lands and Environment Forum in Spokane, Washington, on August 15. Finally, the EPA is collecting input through the docket at <http://www.regulations.gov> (Docket No. OW-2018-0270), which will be open until September 28, 2018. Information from the National Leadership Summit, community engagements, and public input provided to the docket will all help the EPA to develop a PFAS Management Plan. Taken together, this input will enable the EPA to better assist states, tribes, and local communities to ensure the safety of their citizens.

As highlighted in your letters, one of the actions the EPA announced at the Summit is beginning the necessary steps to propose designating perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The EPA has formed a cross-agency workgroup and is assessing existing statutory and regulatory authorities under which PFOA and PFOS could be designated as hazardous substances. CERCLA provides six mechanisms for which a substance may be designated as a hazardous substance, and the EPA is evaluating each of these mechanisms, which include CERCLA Section 102 as well as the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Toxic Substances Control Act. The results of this evaluation will inform the timeline for any future EPA action to pursue such a designation for PFOA or PFOS.

Finally, your July 12, 2018, letter also references the draft PFAS Toxicological Profile from the U.S. Department of Health and Human Services' Agency for Toxic Substances and Disease Registry (ATSDR). On June 20, 2018, ATSDR released a draft Toxicological Profile of four PFAS chemicals for public comment after coordinating with the EPA, the Food and Drug Administration, the National Institutes of Health, the National Institute of Environmental Health Sciences, the U.S. Geological Survey, and the Department of Defense (DOD). The EPA is carefully reviewing ATSDR's draft Toxicological Profile and will consider any information that may inform the EPA's approach to PFOA, PFOS, and other PFAS. Additionally, the EPA is currently developing toxicity values for GenX chemicals and perfluorobutane sulfonate (PFBS) in cooperation with our federal partners, including the Department of Health and Human Services and DOD, and the Agency plans to expand these efforts to other PFAS in 2019. The EPA remains committed to continuing to collaborate with ATSDR and our other federal partners as we work together to protect public health.

Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Matt Klasen in the EPA's Office of Congressional and Intergovernmental Relations at [klasen.matthew@epa.gov](mailto:klasen.matthew@epa.gov) or (202) 566-0780.

Sincerely,



David P. Ross  
Assistant Administrator



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 25 2018

OFFICE OF  
WATER

The Honorable Jeanne Shaheen  
United State Senate  
Washington, D.C. 20510

Dear Senator Shaheen:

Thank you for your June 29, 2018, and July 12, 2018, letters to the U.S. Environmental Protection Agency regarding the per- and polyfluoroalkyl substances (PFAS) community engagement event in Exeter, New Hampshire, and the actions the EPA is taking to address PFAS.

The EPA recognizes the challenges that states, tribes, and communities with PFAS contamination are facing, and is committed to working side by side with our federal, state, local, and tribal partners to address these concerns. As you know, on May 22-23 of this year, the EPA hosted a two-day National Leadership Summit (Summit) on PFAS in Washington, D.C. The Summit included representatives from over 40 states, tribes, and territories; 13 federal agencies; congressional staff; associations; industry groups; and non-governmental organizations. As part of the Summit, the EPA announced four key actions the Agency will take in the near term on PFAS. Details on these four key actions and more information on PFAS is available at <https://www.epa.gov/pfas>. Acting Administrator Wheeler has reinforced the EPA's commitment to taking the actions announced at the PFAS National Leadership Summit in May and to developing a PFAS Management Plan by the end of 2018.

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Again, thank you for your letter. If you have further questions, please contact me or your staff may contact Matt Klasen in the EPA's Office of Congressional and Intergovernmental Relations at [klasen.matthew@epa.gov](mailto:klasen.matthew@epa.gov) or (202) 566-0780.

Sincerely,



David P. Ross  
Assistant Administrator